

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
ASHLAND DIVISION
CIVIL ACTION NO. 08-CV-126-HRW
ELECTRONICALLY FILED

MELISSA MOORE and
JERRY MOORE, as next friend
and on behalf of their
17 year old daughter, Jerica Moore
KIMBERLY HUGHES, on behalf of her
17 year old daughter, Meagan Hanshaw

PLAINTIFFS

vs.

FIRST AMENDED COMPLAINT

JAMES BOGGS, Individually
and in his official capacity
as Principal of Lawrence County
High School; DEBRA DELONG,
Individually and in her official capacity as
Assistant Principal of Lawrence County
High School; LAWRENCE COUNTY
BOARD OF EDUCATION and
UNKNOWN EMPLOYEES OF THE
LAWRENCE COUNTY BOARD OF EDUCATION

DEFENDANTS

Serve: James Boggs, Individually and in his official capacity
as Principal of Lawrence County High School
50 Bulldog Lane
Louisa, Kentucky 41230

Lawrence County Board of Education
50 Bulldog Lane
Louisa, Kentucky 41230

Unknown Employees of the Lawrence County Board of Education
50 Bulldog Lane
Louisa, Kentucky 41230

Come the Plaintiffs, by counsel, and for their complaint states as follows:

1. The Plaintiffs, Jerry and Melissa Moore, state that they are the parents and next friend

of Jerica Moore, who is a 17 year old minor whose date of birth is February 9, 1991.

2. The Plaintiff, Kimberly Hughes, states that she is the biological mother and next friend of Meagan Hanshaw, who is a 17 year old minor whose date of birth is July 30, 1991.

3. As will be subsequently discussed and described in this complaint both minor students were students at Lawrence County High School, who were both harmed in similar manners, following the Defendants being given explicit notice of imminent harm.

4. The Plaintiffs, Jerry and Melissa Moore, have claims against all listed Defendants, while the Plaintiff Kimberly Hughes has asserted claims against all listed Defendants with the exception of Debra Delong.

5. The Defendant, Debra Delong, at all relevant times was a resident of Lawrence County and was employed as an Assistant Principal in the Lawrence County School System.

6. The other Defendant, James Boggs, who at all relevant times was employed as the Principal of the Lawrence County School System.

7. The Plaintiffs state that Jerica Moore is an enrolled student at the Lawrence County High School. The Plaintiffs state that during the first week of August of 2008, the Plaintiffs, Jerry and Melissa Moore, gave the Defendants Delong and Boggs specific and explicit notice that they were fearful of an attack by a juvenile C.S., who was also a student at Lawrence County High School. On August 4, 2008, the Plaintiff, Jerry Moore, advised the Defendant Principal Boggs that he had caused a Juvenile complaint to be filed against the minor student C.S. in which the Plaintiffs had sought the assistance of the Juvenile Court in protecting their minor daughter from harassing communications and threatening messages that the juvenile had been receiving from C.S.

8. The Defendant Boggs assured the Plaintiffs, Jerry and Melissa Moore, that

appropriate measures had been taken to ensure the safety of the Plaintiffs' minor daughter and that appropriate protection measures were in place.

9. On July 30, 2008, the Plaintiff, Melissa Moore, advised Assistant Principal Debra Delong that an attack was likely. The basis for Melissa Moore passing along this information was that the information had been recently received from an officer who works in the Juvenile Court system in Lawrence County.

10. On August 11, 2008, the Plaintiff Jerry Moore went to the Lawrence County High School and specifically advised Principal James Boggs that an imminent attack was likely in that the minor had just received a message from another juvenile which indicated that an attack was coming.

11. On August 11, 2008, an unknown Defendant and agent of the Lawrence County School System was hand delivered a copy of a threatening letter which indicated that the juvenile C.S. was likely to launch an imminent attack on the Plaintiffs' Jerry and Melissa Moore's minor child. The threatening letter in question was taken by the unknown agent of the Lawrence County School System and placed on Defendant Principal Boggs's desk.

12. Predictably on August 12, 2008, the Plaintiffs Jerry and Melissa Moore's minor child was violently attacked by the juvenile C.S. The attack by juvenile C.S. was accomplished by the striking of the back of the juvenile's head with a glass candle stick holder. It is believed that the attack included striking the juvenile twice in the back of the head with a candle stick holder and then the minor juvenile repeatedly struck the Plaintiffs Jerry and Melissa Moore's minor daughter in the back of the head with her fist. The attack took place on Lawrence County High School property.

13. The Plaintiffs Jerry and Melissa Moore allege that the Defendants took no

precautions and were negligent and were deliberately indifferent to the rights of the minor child despite having explicit notice of a series of threats warning of a physical attack during the time period in question, thus violating the Plaintiffs' federal due process rights, and her rights under 42 USC 1983, as well as her state law rights not to be harmed due to the negligence of others.

14. As a result of the attack, the Plaintiffs Jerry and Melissa Moore have incurred medical expenses of approximately \$10,000.00. The Plaintiffs Jerry and Melissa Moore's minor daughter's injuries included staples to the back of her head. The Plaintiffs Jerry and Melissa Moore have incurred and will likely continue to incur medical expenses. The Plaintiffs Jerry and Melissa Moore's minor daughter has experienced and will likely continue to experience pain and suffering.

15. During the time period in question Meagan Hanshaw was enrolled as a Sophomore at Lawrence County High School.

16. On April 26, 2007, Meagan Hanshaw was approached by juvenile BS, who threatened the Plaintiff Kimberly Hugh's minor daughter by telling her "to watch her GD back." As a result of this threat that was overheard by other students, the Plaintiff Kimberly Hughes was notified. On the afternoon of April 26, 2007, the Plaintiff Kimberly Hughes met with the Defendant James Boggs and was advised that the Plaintiff Kimberly Hughes was seeking protection from the Juvenile Court, and sought assistance from school officials for the protection of her daughter.

17. The following day, Friday, April 27, 2007, the Plaintiff Kimberly Hughes met with Principal Boggs and was seeking assurances and promises of added protection for her daughter in that the Plaintiff Kimberly Hughes was convinced by the circumstances and so advised Principal Boggs that another attack was likely and imminent against her minor daughter. The

Plaintiff, Kimberly Hughes, specifically requested that the minor student BS be suspended or other appropriate measures be taken to protect her minor daughter. In response, Principal Boggs declined to discuss what measures, if any, would be taken place to protect a future attack from the minor student BS.

18. On Friday, April 27, 2008, the Plaintiff Kimberly Hughes's minor daughter did not attend school due to fears of an attack from minor student BS.

19. On Monday, April 30, 2008, the minor attended school due to CATS testing. On that same day, the Plaintiff, Kimberly Hughes, once again approached Principal Boggs and was assured that her minor daughter would be escorted to testing and that the Plaintiff Kimberly Hughes continued to fear an imminent attack from minor student BS.

20. On the following day, May 1, 2008, all of the students at Lawrence County High School were required to report to the gym for a morning assembly. The Defendants individually and collectively were careless and negligent in that no protection procedures had been taken. Predictably minor student BS violently attacked the Plaintiff Kimberly Hughes's minor daughter by attacking her with her fist. The attack included punches to the Plaintiff Kimberly Hughes's minor daughter's face, which resulted in a deviated septum and a substantial right eye contusion. The minor student BS is bigger and stronger than the Plaintiff Kimberly Hughes's minor daughter who did not attempt to fight back. The physical altercation ended when a fellow student intervened and stopped the beating that was being administered by minor student BS on a defenseless person of Meagan Hanshaw.

21. As a result of the attack, the Plaintiff Kimberly Hughes's minor daughter has incurred medical expenses and counseling expenses, and experienced and will likely continue to experience pain and suffering.

22. Kentucky statutes offer protection for the students enrolled in public schools. The Defendants violated these rights individually and collectively, thus giving the Plaintiffs a statutory violation under KRS 446.070.

23. All of the acts of the Defendants occurred while they were acting as agents and employees of the Lawrence County School System.

24. The Plaintiffs allege that the acts of the Defendants violated their minor daughter's civil rights and that the Defendants were deliberately indifferent to the needs of their minor daughters.

25. The Plaintiffs further allege that the Defendants in carrying out their ministerial duties were negligent and careless in not taking reasonable measures to protect the minor from harm. All of the acts of the Defendants occurred while the Defendants were acting under color of state law.

26. Following the violent attacks, Plaintiff Kimberly Hughes's minor daughter did not return to Lawrence County High School and eventually received her GED.

27. The Defendants have an unconstitutional plan or custom of being deliberately indifferent to the rights of minors referenced in this complaint, which resulted in the harm described elsewhere in this amended complaint.

28. The actions of the Defendants violated the civil rights of the minors under 42 USC 1983, and under the Fourth and Fourteenth Amendment to the federal constitution, as well as the state law claims previously described in this complaint.

WHEREFORE, the Plaintiffs seek relief as follows:

1. Judgement against the Defendants, as to both their state law and federal claims.

2. Compensation for the Plaintiffs' minor children's past and future pain and suffering and past and future medical expenses.
3. Attorney fees pursuant to 42 U.S.C. 1988.
4. Trial by jury.
5. Court costs and any and other relief deemed appropriate.

RESPECTFULLY SUBMITTED,

S/NED PILLERSDORF
PILLERSDORF, DEROSSETT & LANE
124 WEST COURT STREET
PRESTONSBURG, KENTUCKY 41653
PH: (606) 886-6090