

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

JOHN DOE, in his capacity as next of kin of his minor son, MINOR DOE.

– Versus –

LIVINGSTON PARISH SCHOOL BOARD; BILL SPEAR, Superintendent, Livingston Parish School Board; JEFF FRIZELL, Principal, Juban Parc Junior High School; MALCOLM SIBLEY, Member, Livingston Parish School Board; KELLE DICKERSON, Member, Livingston Parish School Board; MILTON HUGHES, Member, Livingston Parish School Board; KAREN SCHMITT, Member, Livingston Parish School Board; BUDDY MINCEY, JR., Member, Livingston Parish School Board; JEFFERY COX, Member, Livingston Parish School Board; JAMES WATSON, Member, Livingston Parish School Board; KEITH MARTIN, Member, Livingston Parish School Board; SID KINCHEN, Member, Livingston Parish School Board

Defendants.

NUMBER:

JUDGE:

MAG:

CIVIL RIGHTS ACTION
42 U.MINOR DOE § 1983

DECLARATORY AND INJUNCTIVE
RELIEF

COMPLAINT

I. INTRODUCTION

1. This is an action pursuant to 42 U.S.C. §§ 1983 and 1988, for declaratory relief, preliminary and permanent injunctive relief and nominal damages to redress Defendants' violations of Plaintiff MINOR DOE's rights as protected by the First Amendment to the United States Constitution and the Louisiana Preservation of Religious Freedom Act, and Plaintiff JOHN DOE's rights protected by the

Fourteenth Amendment. Specifically, Plaintiffs seek judicial review of the hair length restriction of the Livingston Parish School Board's dress code as applied to MINOR DOE. The actions of Defendants are violations of MINOR DOE's rights to freely exercise his religion and freely express himself. Defendant's actions also violate JOHN DOE's Fourteenth Amendment due process rights to direct the religious and educational upbringing of his son.

II. JURISDICTION AND VENUE

2. This Court has original jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1343. This court has supplemental jurisdiction over Plaintiff's state law claim pursuant to 28 U.S.C. § 1367.
3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b).
4. Declaratory relief is authorized pursuant to 28 U.S.C. § 2201 and 28 U.S.C. § 2202. A declaration of the law is necessary and appropriate to determine the respective rights and duties of the parties to this action.

III. THE PARTIES

5. Plaintiff, JOHN DOE, is an individual of the age of majority currently residing in Denham Springs, Louisiana within the jurisdiction of the Middle District of Louisiana. He is bringing this suit in his personal capacity and on behalf of his minor son, MINOR DOE who is a student at Juban Parc Junior High School.
6. Plaintiff, MINOR DOE, is an individual of the age of minority currently residing in Denham Springs, Louisiana, and is a student at Juban Parc Junior High School, within the jurisdiction of the Middle District of Louisiana.

7. Defendant, LIVINGSTON PARISH SCHOOL BOARD, is a political subdivision of the State of Louisiana located in Livingston, Louisiana, which is in the jurisdiction of the Middle District of Louisiana. At all relevant times, Defendant Board was the employer of Bill Spear and Jeff Frizell, who are also named defendants herein. Defendant Board is directly liable for acts complained of herein due to the policies, practices, procedures and customs of its employees and by its final policymakers. Defendant Board is further directly liable for acts complained of herein due to its enactment of the dress code that, as applied, violates Plaintiffs' constitutionally protected rights. Defendant Board maintains the right and power to sue and be sued.
8. Defendant, Superintendent BILL SPEAR, is an individual of the age of majority presently residing in Livingston Parish, within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Spear was the duly elected Superintendent of Livingston Parish School Board. Defendant Spear is responsible for the supervision and administration of Livingston Parish Public Schools, including Juban Parc Junior High School. Additionally, Defendant Spear is responsible for the implementation and enforcement of the policies of Livingston Parish School Board complained of herein, which violated Plaintiffs' rights by refusing to make an exemption to the Board's grooming policy for Plaintiffs. He is the final policymaker with regard to the decision not to make an exemption to the school board grooming policy. He is sued in his official capacity.
9. Defendant, JEFF FRIZELL, is an individual of the age of majority currently employed by Livingston Parish School Board, within the jurisdiction of the Middle

District of Louisiana. At all times pertinent herein, Defendant Frizell was the principal of Juban Parc Junior High School. Defendant Frizell imposed punishment on MINOR DOE for allegedly violating the school grooming policy. He personally made the decision to violate Plaintiffs' rights. Defendant Frizell is authorized to and does carry out the policies of the Livingston Parish School Board. He is sued in his official capacity.

10. Defendant, MALCOLM SIBLEY, is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Sibley was duly elected as a member of the Livingston Parish School Board. Defendant Sibley is responsible for Livingston Parish School Board's adoption and enforcement of the dress code complained herein. He is sued in his official capacity.

11. Defendant, KELLEEE DICKERSON, is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Dickerson was duly elected as a member of the Livingston Parish School Board. Defendant Dickerson is responsible for Livingston Parish School Board's adoption and enforcement of the dress code complained herein. She is sued in her official capacity.

12. Defendant, MILTON HUGHES, is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Hughes was duly elected as a member of the Livingston Parish School Board. Defendant Hughes is responsible for Livingston

Parish School Board's adoption and enforcement of the dress code complained herein. He is sued in his official capacity.

13. Defendant, KAREN SCHMITT, is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Schmitt was duly elected as a member of the Livingston Parish School Board. Defendant Schmitt is responsible for Livingston Parish School Board's adoption and enforcement of the dress code complained herein. She is sued in her official capacity.

14. Defendant, ALBERT "BUDDY" MINCEY, JR., is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Mincey was duly elected as a member of the Livingston Parish School Board. Defendant Mincey is the school board member elected to represent the district in which MINOR DOE attends school. Defendant Mincey is responsible for Livingston Parish School Board's adoption and enforcement of the dress code complained herein. He is sued in his official capacity.

15. Defendant, JEFFREY COX, is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Cox was duly elected as a member of the Livingston Parish School Board. Defendant Cox is responsible for Livingston Parish School Board's adoption and enforcement of the dress code complained herein. He is sued in his official capacity.

16. Defendant, JAMES WATSON, is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Watson was duly elected as a member of the Livingston Parish School Board. Defendant Watson is responsible for Livingston Parish School Board's adoption and enforcement of the dress code complained herein. He is sued in his official capacity.

17. Defendant, KEITH MARTIN, is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Martin was duly elected as a member of the Livingston Parish School Board. Defendant Martin is responsible for Livingston Parish School Board's adoption and enforcement of the dress code complained herein. He is sued in his official capacity.

18. Defendant, SID KINCHEN, is an individual of majority age currently residing in Livingston Parish within the jurisdiction of the Middle District of Louisiana. At all times pertinent herein, Defendant Kinchen was duly elected as a member of the Livingston Parish School Board. Defendant Kinchen is responsible for Livingston Parish School Board's adoption and enforcement of the dress code complained herein. He is sued in his official capacity.

IV. FACTUAL ALLEGATIONS

19. The dress code provision of the Livingston Parish School Board handbook provides: "Male hair length must be of even distribution. The hair may not extend below the plane of the shoulder nor down upon the eyebrow in front, nor down below the earlobes. Hair must be clean, well-groomed and neat at all times. (Lines cut in the

hair, shaven hair, "mohawk" cuts, extreme coloring of hair, "tails" or any other hairstyle which interferes with a student's performance or that of his classmates is prohibited.)”

20. MINOR DOE is a 6th grade male student who attends Juban Parc Junior High School in Denham Springs, Louisiana.
21. MINOR DOE is a registered member of the United Houma Nation.
22. The United Houma Nation is a Native American tribe indigenous to Southeast Louisiana, recognized by the State of Louisiana but not officially recognized by the United States Department of Interior, Bureau of Indian Affairs.
23. The United Houma Nation largely leaves the religious beliefs of its members up to the individual, but also has distinct spiritual, religious and cultural traditions.
24. MINOR DOE is a Christian, but his spiritual beliefs and practices are not exclusive to traditional Christian beliefs and practices. His beliefs are also in accord with centuries old cultural and spiritual beliefs.
25. MINOR DOE’s parents have instructed and taught him about his heritage, culture and beliefs. In recent years, MINOR DOE has been more studious of the values that his family and ancestors have held and presently hold.
26. MINOR DOE began growing his hair out in accordance with his individual spiritual beliefs on or about August, 2010.
27. MINOR DOE has a sincerely held belief that the strength of a man is in his hair.
28. MINOR DOE also believes that hair is an extension of the spirit and to cut it is akin to bodily dismemberment. A lock of hair is only to be severed during a period of mourning to signify the loss of a part of oneself after the death of a close loved one.

29. Even in mourning, the cutting of a male's hair under this traditional Native belief is permissive, not mandatory.
30. Because the United Houma Nation does not espouse one religion over another, it does not mandate, per se, male members to grow their hair long. However, many of MINOR DOE's relatives and tribal members do not cut their hair, because of the beliefs espoused regarding the importance of hair.
31. MINOR DOE's hair currently reaches down just below the collar line or nape of his neck and extends to his eyebrows in the front. Due to the texture of MINOR DOE's hair, it sometimes falls just below his eyebrows during his first hour P.E. class when he is exercising or playing sports. MINOR DOE promptly brushes his hair back into place with his hands when this occurs.
32. During the weeks and months preceding any formal reprimand, certain teachers had repeatedly commented and suggested that he cut his hair. MINOR DOE would respond by informing them that he was letting his hair grow out for spiritual and cultural reasons. Other teachers did not mention his hair as being in violation of the dress code.
33. MINOR DOE was cited for violation of the dress code's hair length restriction on February 28, 2011. Notification of the offense was sent home to his parents.
34. The following day, on March 1, 2011, MINOR DOE's older, adult brother went to speak to the school's principal, Defendant Frizell, on behalf and with the permission of MINOR DOE's parents.
35. MINOR DOE's brother explained to the principal the spiritual and cultural significance of MINOR DOE growing his hair long.

36. Defendant Frizell advised that MINOR DOE's parents should contact the School Board Office and seek an exception to the school dress code policy.
37. On March 3, 2011, MINOR DOE's step-mother, Mrs. Chaisson, contacted Defendant Mincey via e-mail in efforts to obtain an exception to the school's dress code policy. She explained to him the spiritual and cultural significance of MINOR DOE growing his hair long.
38. Defendant Mincey responded to Mrs. Chaisson on the same day and told her that he had forwarded her message to the central office and requested that someone contact her to discuss the issue.
39. Stephen Parrill, Supervisor for Defendant School Board, contacted Mrs. Chaisson later that day and informed her that he had spent the day researching the Tribe, and did not find that it is mandated by the United Houma Nation that their male members wear their hair long.
40. Parrill informed Mrs. Chaisson that the school's main complaint is that MINOR DOE's hair is in his eyes.
41. Mrs. Chaisson communicated to Parrill that MINOR DOE started growing his hair out approximately 8 months ago and it is growing slowly. It is not yet long enough for him to pull it back in a pony tail.
42. Parrill stated that his office currently stood in agreement with the school's request for MINOR DOE's compliance with the dress code.
43. MINOR DOE was again cited for violation of the dress code's hair length restriction on March 4, 2011. Notification of the offense was sent home to MINOR DOE's parents.

44. MINOR DOE was again cited for violation of the dress code's hair length restriction on March 10, 2011. Notification of the offense was sent home to MINOR DOE's parents. He received a detention for this violation, which was served on March 15, 2011.
45. MINOR DOE was again cited for violation of the dress code's hair length restriction on March 14, 2011. Notification of the offense was sent home to MINOR DOE's parents. He received a detention for this violation that was served on March 18, 2011.
46. MINOR DOE was again cited for violation of the dress code's hair length restriction on March 15, 2011. Notification of the offense was sent home to MINOR DOE's parents. He was suspended from school for this violation and allowed to return on March 16, 2011.
47. MINOR DOE was again cited for violation of the dress code's hair length restriction on March 21, 2011. Notification of the offense was sent home to MINOR DOE's parents. He was suspended from school for this violation. The suspension was served on March 22, 2011.
48. MINOR DOE and counsel sent a letter to Defendants, dated March 17, 2011, advising that the suspension violated Plaintiffs' rights.
49. MINOR DOE, Mrs. Chaisson and counsel met with Edward Foster, hearing officer designee of Defendant Spear, on March 22, 2011 to appeal MINOR DOE's suspensions. This appeal hearing was tape recorded by Defendant Foster.

50. MINOR DOE continuously demonstrated at the hearing that his hair was neither “in his eyes,” obstructing his vision, nor concealing his eyes or making him otherwise unidentifiable.
51. Plaintiffs advised Defendants that they were seeking a compromise that would allow MINOR DOE to remain in school, but that he could not cut his hair.
52. Foster said that he would forward the taped hearing to Defendant Spear for his review and consideration. After listening to the taped hearing, Defendant Spear would then make a final determination as to MINOR DOE’s appeal within five (5) days.
53. Defendant Spear issued a decision on March 25, 2011 upholding MINOR DOE’s suspensions. That decision was received by Plaintiffs on March 29, 2011.
54. Suspensions are not appealable to the school board. Thus, MINOR DOE’s final administrative remedy was the appeal hearing on March 22, 2011 and Defendant Spear’s subsequent determination.
55. MINOR DOE remains subject to discipline at any time, and the negative academic repercussions he has suffered from receiving detentions and suspensions remain on his record. Defendants have not made any exemption to the dress code policy, and Plaintiffs are in constant fear that he will be sent home at any time for non-compliance. He has continued to style his hair as he did at the time of being disciplined.
56. This occurrence has had severe negative academic and personal effects on MINOR DOE.

VI. CAUSES OF ACTION

FIRST CLAIM FOR RELIEF

(Livingston Parish School Board's dress code policy's hair restriction, as applied to MINOR DOE, violates MINOR DOE's First Amendment right to the free exercise of his religion and expression)

57. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation contained above.
58. The aforementioned policy, as applied to MINOR DOE, is unconstitutional because it impermissibly burdens MINOR DOE's First Amendment rights to the free exercise of his religion and expression.

SECOND CLAIM FOR RELIEF

(Livingston Parish School Board's dress code policy's hair restriction, as applied to MINOR DOE, violates John Doe's Fourteenth Amendment due process rights to direct the education and religious upbringing of his son)

59. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation contained above.
60. The policy, as applied to MINOR DOE, impermissibly burdens John Doe's Fourteenth Amendment due process right to direct the education and religious upbringing of his son.

THIRD CLAIM FOR RELIEF

(Livingston Parish School Board's dress code policy's hair restriction, as applied to MINOR DOE, violates MINOR DOE's rights under the Louisiana Preservation of Religious Freedom Act)

61. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation contained above.
62. The aforementioned policy, as applied to MINOR DOE, is unconstitutional because it impermissibly burdens MINOR DOE's right to the free exercise of his religion provided under the Louisiana Preservation of Religious Freedom Act.

VII. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, having no adequate remedy at law, prays for the following:

1. That MINOR DOE's disciplinary record be cleared of any infractions and subsequent punishment relating to violations of the dress code policy's hair length restriction, and that he be allowed to make up any school work missed or hindered by this occurrence;
2. That a preliminary injunction and permanent injunction be issued restraining and enjoining Defendants and their employees and agents from enforcing or threatening to enforce the Livingston Parish School Board's dress code policy's hair length restriction upon MINOR DOE;
3. That a declaratory judgment be issued holding that the Livingston Parish School Board's dress code policy's hair length restriction is unconstitutional as applied to MINOR DOE;
4. That Plaintiffs be awarded nominal damages;
5. That reasonable attorneys' fees, expenses and costs be awarded to Plaintiff pursuant to 42 U.S.C § 1988 and any other applicable provision of law;
6. That this Court grant all equitable and further relief which the Court deems just and proper.

Respectfully Submitted,

/s/ Katie Schwartzmann
Katie Schwartzmann (#30295)
Legal Director
P.O. Box 56157
New Orleans, Louisiana 70156

*American Civil Liberties Union Foundation
of Louisiana*

Ron Wilson (#13575)
701 Poydras St. Ste 4100
New Orleans, LA 70139
*Cooperating Attorney for the American Civil
Liberties Foundation*

Attorneys for Plaintiffs