

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

JOHN DOE, as parent and next of kin to
MINOR DOE

Plaintiff,

– Versus –

WEST BATON ROUGE PARISH SCHOOL
BOARD; DAVID CORONA, Superintendent,
in his personal and official capacities;
WALTER LEMOINE, Principal of Brusly
High School, in his personal and official
capacities

Defendants.

NUMBER: 3:11-cv-712

JUDGE:

M. JUDGE:

CIVIL RIGHTS ACTION
42 U.S.C. § 1983

DECLARATORY AND INJUNCTIVE
RELIEF

COMPLAINT

NOW INTO COURT, through undersigned counsel, comes John Doe, a person of the age of majority and a resident of West Baton Rouge Parish and the state of Louisiana, on behalf of his son Minor Doe, who respectfully represents as follows:

JURISDICTION AND VENUE

1. This is an action under 42 U.S.C. §§ 1983 and 1988, brought to redress violations of Minor Doe's First Amendment rights. The Court has original jurisdiction over this matter pursuant to 28 U.S.C. §§1331 and 1343.
2. Venue is proper in this Court under 28 U.S.C. §1391(b), because Plaintiffs and Defendants all reside in the Middle District of Louisiana.

3. Declaratory relief is authorized by 28 U.S.C. §2201 and 28 U.S.C. §2202. A declaration of law is necessary to determine the respective rights and duties of the parties to this action.

THE PARTIES

4. Plaintiff **John Doe** is a resident of West Baton Rouge Parish, and the legal guardian and biological father of Minor Doe. Plaintiff brings this action in his personal capacity on behalf of his son, **Minor Doe**, a resident of West Baton Rouge Parish, Louisiana and a senior at Brusly High School. Plaintiff and Minor Doe bring and plead this matter anonymously, but their identities are already well-known to the parties.

5. Defendant **West Baton Rouge Parish School Board** is the entity responsible for the administration of schools within West Baton Rouge Parish, including Brusly High School, the school which Plaintiff Minor Doe attends. At all relevant times, the Board has overseen and approved the implementation of Brusly High School's disciplinary policies. The Board is a political entity capable of suing and being sued.

6. Defendant **Walt Lemoine** has been at all relevant times the principal of Brusly High School. He is responsible for the execution and administration of the policies and procedures of Brusly High School, including student discipline. He is sued in his official and individual capacities.

7. Defendant **David Corona** has been at all relevant times the superintendent of schools in West Baton Rouge Parish, including Brusly High School. He is responsible for the administration and enforcement of the policies and procedures of West Baton Rouge Parish School Board, including disciplinary policies. He has the authority to review and,

where appropriate, reverse student punishments. He is sued in his official and individual capacities.

FACTS

8. At approximately 10:00PM on Wednesday, September 7, 2011, Brusly High School senior Minor Doe criticized one of his teachers on Facebook.
9. Minor Doe posted the comment to his own Facebook page, from his own computer, in his own bedroom, at his parents' home.
10. He formatted the comment so that it was visible only to ten students with whom he had been working earlier that evening, all of whom had Facebook pages of their own.
11. Unbeknownst to Minor Doe, one of those students took a cell phone picture of the posting and sent it via text message to the teacher at issue.
12. Having intended the Facebook post as a joke, Minor Doe deleted it the following morning before school.
13. Upon receiving the text message, the teacher reported Minor Doe's Facebook post to Principal Lemoine.
14. On Monday, September 12th, 2011, Principal Lemoine called Minor Doe's mother to Brusly High School for a meeting.
15. At that meeting, Lemoine informed Minor Doe's mother that Minor Doe's Facebook post violated the school's "Improper access of the internet" policy, and that Minor Doe would be suspended out of school for five days.
16. At the request of Minor Doe's mother, herself a teacher in West Baton Rouge Parish, Lemoine reduced Minor Doe's punishment to a two-day, in-school suspension.
17. Minor Doe's two-day, in-school suspension began Friday, September 16th.

18. Principal Lemoine also removed Minor Doe from the Brusly High School “Beta Club,” an academic honors society.
19. The teacher at issue is the faculty supervisor of Beta Club.
20. Minor Doe’s mother then requested a meeting with Superintendent Corona to discuss the constitutionality of Minor Doe’s suspension and the possibility of having it reversed and expunged.
21. Superintendent Corona and Minor Doe’s mother exchanged several emails about Minor Doe’s suspension and the possibility of a meeting, but in the end, Corona indicated that he would not meet until he had consulted with school district counsel.
22. Minor Doe’s mother never heard back from Superintendent Corona regarding the possibility of a meeting.
23. Corona later contacted Minor Doe’s mother by phone and told her that he would not overturn the suspension until someone told him that it was unconstitutional, and that Minor Doe’s mother had a right to pursue that remedy.
24. Minor Doe finished his suspension on Monday, September 19th.
25. As a result of the suspension, Minor Doe was unable to attend in-class reviews for two exams he was to take on Tuesday, September 20, 2011. He performed poorly on both.
26. Prior to performing poorly on the two exams, Minor Doe had never received grades lower than an “A” in either class.
27. Seeking other options, Minor Doe’s parents searched the School Board’s policy manual and student handbook – both of which are published on the internet – for a way to appeal Minor Doe’s suspension, or at least have his disciplinary record expunged.

28. Unfortunately for Minor Doe, the portions of the WBRPSB policy manual to which Minor Doe's parents were able to gain access set forth no right of formal hearing or appeal from a suspension of fewer than ten days.
29. The policy manual does contain a provision that pertains to general grievance procedures; however, that provision is not viewable online.
30. Seeking to obtain a copy of the grievance procedure information, John Doe appeared at the WBRPSB office and spoke with Superintendent Corona.
31. John Doe and Superintendent Corona searched the online edition of the policy manual using a computer terminal at the WBRPSB office, but were unable to view the chapter related to grievance procedures.
32. Frustrated in her efforts to effect an administrative remedy, Minor Doe's mother contacted the Louisiana affiliate office of the American Civil Liberties Union.
33. Minor Doe now brings this action, through his father John Doe.

CAUSES OF ACTION

FIRST CLAIM FOR RELIEF (Defendants violated Plaintiff John Doe's First Amendment rights by suspending him for his Facebook post)

34. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation contained above.
35. Outside the boundaries of his public educational environment, Plaintiff Minor Doe has a fundamental First Amendment right to engage in public speech on his Facebook page, including commentary that his teacher finds offensive.

36. Minor Doe's Facebook post, while critical and insulting, was created in his own home, using his own computer, and was not in any way intentionally directed at Brusly High School. The post therefore is protected speech under the First Amendment.

37. In the alternative, within the boundaries of his public educational environment, Plaintiff Minor Doe has a fundamental First Amendment right to engage in public speech on his Facebook page, so long as that speech does not substantially disrupt the educational mission of his school.

38. Minor Doe's Facebook post did not create a disruption at school. Indeed, any disruption that resulted from the post was created either by the school itself, or by a party outside Minor Doe's control.

39. For the above reasons, Minor Doe's two-day, in-school suspension and other punishments violated the First Amendment.

SECOND CLAIM FOR RELIEF
(As applied, Brusly High School's "Improper Access of Internet"
policy violates the First Amendment)

40. Plaintiffs reallege and reincorporate, as though fully set forth herein, each and every allegation contained above.

41. As applied, Brusly High School's "Improper Access of Internet" policy operates to inhibit otherwise protected First Amendment activity.

42. For that reason, the policy violates the First Amendment as applied.

PRAYER FOR RELIEF

43. WHEREFORE, Plaintiffs, having no adequate remedy at law, request the following:

A. a temporary restraining order requiring Defendants to do the following:

- (i) refrain from sharing Minor Doe's disciplinary record as to the suspension with any other person or entity, including any colleges to which Minor Doe may be applying for admission;
 - (ii) offer Minor Doe a reasonable opportunity to retake the two exams on which he scored poorly and adjust his overall grades using the new scores;
 - (iii) reinstate his membership in the Beta Club and permit him to engage in its activities, including the November 1, 2011 competition;
- B. a preliminary injunction and, eventually, a permanent injunction requiring Defendants to do the following:
- (i) expunge Minor Doe's disciplinary record as to the suspension,
 - (ii) permanently reinstate his membership in the Beta Club,
- C. A declaratory judgment determining Minor Doe's suspension to be unconstitutional;
- D. Nominal damages;
- E. Actual and compensatory damages;
- F. Reasonable attorneys' fees, expenses and costs under 42 U.S.C § 1988 and any other applicable provision of law;
- G. All other relief which the Court deems just.

Respectfully Submitted,

/s/ Justin Harrison

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