

IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF LOUISIANA

J.W., by and through his next friend,

)
)

pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3). This Court has jurisdiction under 28 U.S.C. § 1367 over Plaintiff's state law claims, as they are so related to the federal claims in this action that they form a part of the same case or controversy under the Constitution and laws of the United States.

VENUE

5. Venue is proper under 28 U.S.C. § 1391(b)(2) because a "substantial part of the events or omissions giving rise to the claim[s] occurred" in this district. This Court is authorized to grant declaratory relief under 28 U.S.C. §§ 2201 and 2202, and injunctive relief pursuant to Rule 65 of the Federal Rules of Civil Procedure.

PARTIES

REPRESENTATIVE PLAINTIFF

6. Plaintiff J.W. is a seven-year-old resident of the city of New Orleans located in Orleans Parish. He is currently enrolled at Sarah T. Reed Elementary School, a school operated by the Recovery School District, and he attended this school during the 2009-2010 school year.

[REDACTED]

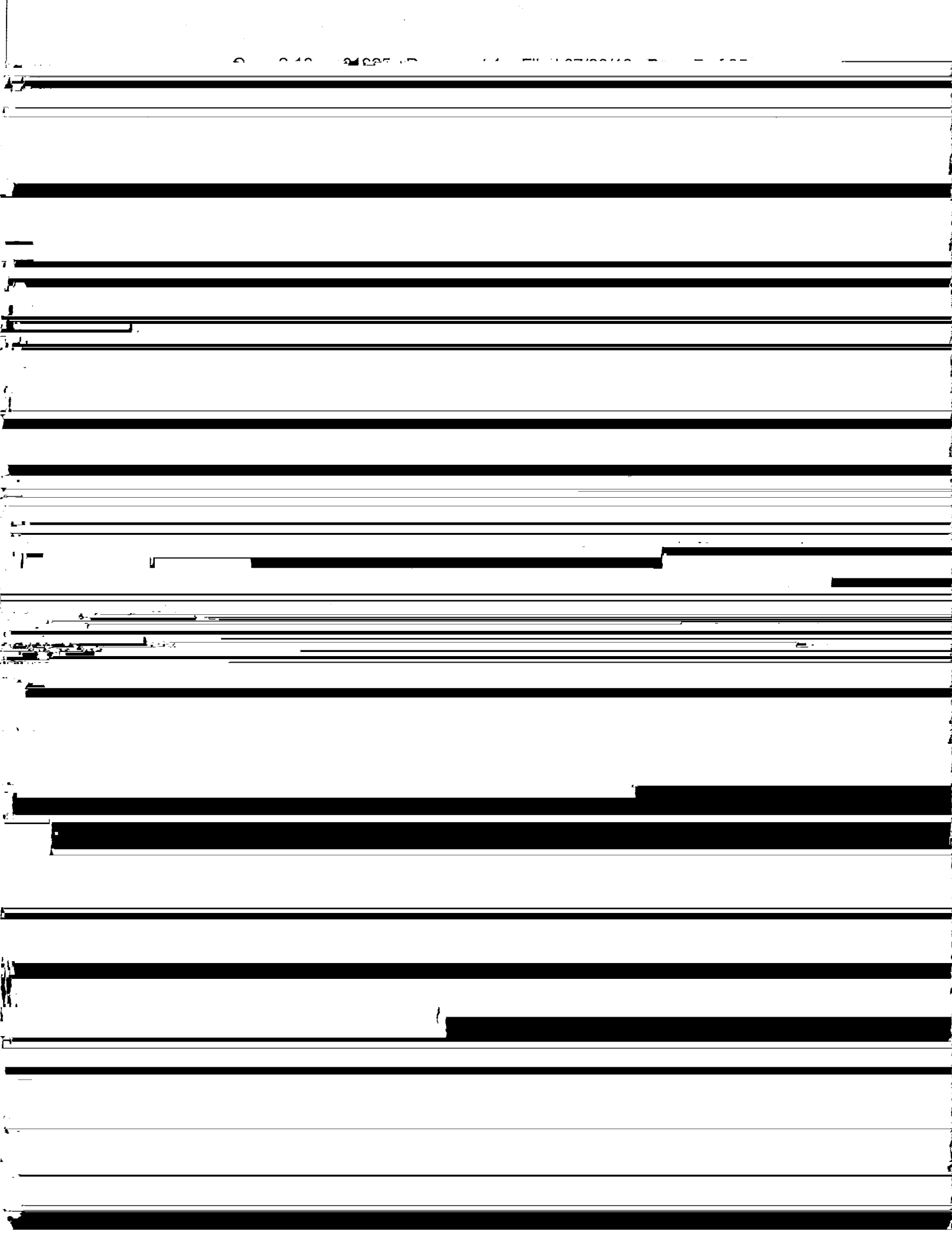
11. Defendant POLICE OFFICER JANE DOE is or was an employee of the RSD Security Department and/or was an employee of the RSD Security Department at all relevant times. She is sued here in her official and individual capacities.

12. Defendant PRINCIPAL DAPHYNE BURNETT is an employee of the RSD and the school principal of Reed Elementary School. Defendant Burnett has administrative and supervisory responsibility over all personnel, administration, and affairs at Reed Elementary School. She is sued here in her official and individual capacities.

17. The named Plaintiff will fairly and adequately represent the interests of the class. This Plaintiff possesses a strong personal interest in the subject matter of the lawsuit, and is represented by experienced counsel with expertise in class action, civil rights and other complex litigation. Fed. R. Civ. P. 23 (a)(4).

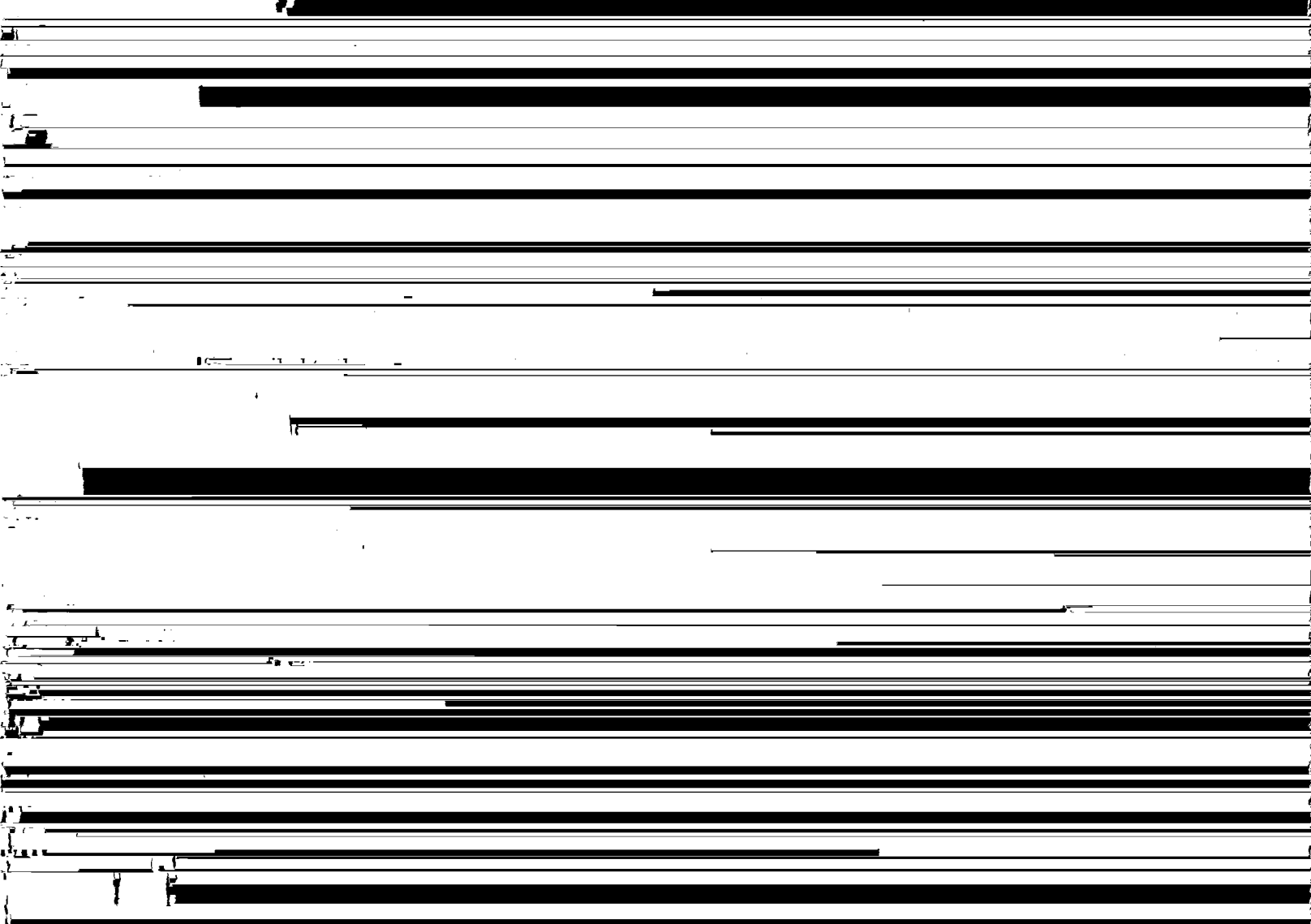
18. Defendants have acted or proposed to act in a manner that is inconsistent with the public interest.

[REDACTED]



[REDACTED]

34. Even before the May 4 and May 6 incidents, J.W.'s parents had serious concerns about Reed's public safety policies. On a number of occasions, school officials failed to protect J.W. from bullying, isolated him from his peers, placed him in a class room with students more than twice his age and size, and exposed him to poorly trained school police officers who carry guns inside the elementary school. J.W.'s parents met with school officials several times to voice their concerns about the safety and well-being of their child. On several occasions before the May 4 and May 6 incidents, school officials agreed to reform their practices, but they repeatedly



his son had been handcuffed to a chair, Defendant Burnett responded defiantly "That's what he was—right."

39. In response to Mr. Weston's request to Defendant Burnett that she cease the practice of seizing, arresting and detaining his son, Defendant Burnett advised the father: "[t]hen

you need to tell him to move when we ask him to." [REDACTED]

after the event. [These practices]. . .may evoke feelings of guilt, humiliation, embarrassment, loneliness, powerlessness, fear and panic." Sue Rurrell, *Moving Away From Handicaps: The*

May 6. Defendant Burnett did not decide to suspend the first grader until his father made it clear that he intended to hold her and her staff accountable for violating J.W.'s rights.

45. On May 10, 2010, two local news outlets, ABC 26 WGNO-TV and the Times-

Discussed the incident with the school principal and the school superintendent.



50. IACP policy states that “officers may use only the level of force that is objectively reasonable to bring an incident under control.”

51. The IACP policy focuses on the importance of graduated sanctions in the treatment of youth and it discourages the use of enforcement mechanisms typically used with adults—like handcuffs and shackles—on young children.

52. The Commission on Accreditation of Law Enforcement Agencies (CALEA) is a



chair. Similarly, an objectively reasonable school principal and school police officer know that it is unlawful to subject students to arrests and seizures solely for the purpose of punishment, humiliation and intimidation.

57. Under Louisiana Law, six-year-old children cannot be arrested or held liable for violations of the criminal code. La. R.S. 14:13. Thus, it is clear that the Reed Defendants lacked

These Defendants have also pledged to enforce this policy against all Reed students who violate minor school rules.

62. The District Defendants have ultimate responsibility for ensuring that Recovery School District schools operate in compliance with state and federal law. The District

Defendants have a duty to ensure that the schools are in compliance with state and federal law.

that school police officers lacked the training necessary to comply with the law. A 2006 news article documented the school police officers' lack of training. Stephon Maloney, *New Orleans High Schools Face Tensions*. New Orleans City Business, November 6, 2006.

66. Lisa Thureau is the Executive Director of a group called Strategies for Youth. She is a well-renowned national expert on improving the quality of police and youth interactions. From 2007-2009, Ms. Thureau sent numerous letters to the RSD Superintendent and the Director of Security in which she described accounts of RSD security staffs' use of unreasonable arrests

and excessively intrusive seizures. Through these letters, Ms. Thureau offered her training and

consulting services and encouraged the District to take advantage of alternative policing

72. The BESE Board has failed to promulgate policies and practices related to training and operations to protect the rights of Reed Elementary School students against unreasonable arrests and excessively intrusive seizures. The BESE Board has approved policies that provide wholly inadequate guidance to school police regarding how to lawfully execute arrests and seizures. The BESE board has also authorized wholly inadequate training for school

unreasonable arrests and excessively intrusive searches. Defendant Miller has argued that his

that provide wholly inadequate guidance to school police regarding how to lawfully execute

policies that provide wholly inadequate guidance to school police regarding how to lawfully

Defendant's policies have also provided wholly inadequate guidance to

CAUSES OF ACTION

82. J.W. and the proposed class incorporate by reference all of the above factual allegations to support the following claims:

Count I

**DECLARATORY AND INJUNCTIVE RELIEF TO REMEDY
FOURTH AMENDMENT VIOLATIONS:
UNLAWFUL ARRESTS**

82. Plaintiff alleges the following facts and circumstances in support of her claim for declaratory and injunctive relief to remedy Fourth Amendment violations: UNLAWFUL ARRESTS

86. [REDACTED] I W and the proposed class are entitled to a permanent injunction prohibiting the [REDACTED]

Count V

ASSAULT AND BATTERY IN VIOLATION OF LOUISIANA LAW

91. By their foregoing actions, Defendants Burnett, Willis, and Doe are liable for the assault and battery of Plaintiff J.W. in violation of Louisiana Law. La. R.S. 14:36; La. R.S. 14:33.

92. J.W. seeks a declaratory judgment, compensatory and punitive damages against these Defendants.

Count VI

[REDACTED]

law. As a result of the policies, practices, acts and omissions of the Defendants, the named

~~Plaintiff and the close family members to whom he has suffered serious, imminent, irreparable~~

physical, mental and emotional injuries.

Respectfully submitted,

s/Thena K. Robinson, La. Bar No. 32229

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