

IN THE JUVENILE COURT OF PIKE COUNTY
STATE OF ALABAMA

In the Matter of

D.P. , a child , by and through his next
friend, Shatarra Pelton ,

Plaintiff,

v.

Pike County Board of Education ; and

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Case Number:

3. Defendants, who are responsible for the administration of PCS, routinely fail to employ fundamentally fair procedures to determine whether a student has violated the Code of Conduct

II. JURISDICTION AND VENUE

9. To initiate judicial review of a school board's disciplinary decision, a complaint or petition must be filed alleging "facts sufficient to establish the subject-matter jurisdiction and venue of the juvenile court." Ala. R. Juv. P. 12(A).
10. This Court has subject matter jurisdiction over this action, under Ala. Code § 12-15-115(b)(2), because the juvenile court "shall have original jurisdiction in proceedings . . . [w]here it is alleged that the rights of a child are improperly denied or infringed in proceedings resulting in suspension, expulsion, or exclusion from a public school."
11. Alabama law defines a "child" as "an individual under the age of 19 years." Ala. Code § 12-15-102(3).
12. "[T]he juvenile court is not limited to merely reviewing the Board's hearing for procedural flaws; it must also determine whether the *substance* of the proceedings has resulted in infringement upon rights conferred upon the child by the state The juvenile court exercises original jurisdiction over these issues and thus is not limited only to a review of constitutional issues arising from the Board's action." *C.L.S. by and through S.S.C. v. Hoover Bd. of Educ.*, 594 So.2d 138, 139 (Ala. Civ. App. 1991) (emphasis added).
13. Venue is proper, under Ala. Code § 12-15-302, because Pike County is where Plaintiff resides, Defendants operate, and the underlying factual allegations occurred.

III. PARTIES

14. Plaintiff: D.P. is a Black, eighteen-year-old youth, formerly enrolled in PCS. D.P.'s rights were infringed in proceedings resulting in his unlawful suspension and exclusion from PCS from November 22, 2019, through February 21, 2020, during his senior year of high school. D.P., a child under Ala. Code § 12-15-102(3), is represented

by and through his parent and next friend, Shatarra Pelton, a permanent resident of

returned to school when the other student showed him what appeared to be drug paraphernalia.

23. After questioning D.P, Principal Britford allowed D.P. to drive himself home.
24. Principal Britford did not refer the matter to the Pike County Police Department.
25. GHS did not investigate whether D.P. possessed or used marijuana by requesting D.P. to submit to drug testing, interviewing his teachers about his behavior in class, or searching his person or his car.
26. Still , D.P. was charged with violating Rule 4.5 of the Code of Conduct which prohibits the sale, purchase, use, or possession of illegal drugs or alcoholic beverages at school. D.P. was indefinitely suspended pending a hearing before the Superintendent's Disciplinary Council ("Disciplinary Council").
27. Although D.P. received written notice that he had been suspended and charged with violating Rule 4.5 of the Code of Conduct, the notice contained no additional detail about the specific acts that resulted in the alleged violation.
28. The notice contained no information about the potential consequences that D.P. faced; however, according to the Code of Conduct, expulsion is a potential consequence for any Rule 4 violation.
29. On November 22, 2019, after receiving notice of the allegations against him, D.P. immediately and voluntarily submitted to a drug test.
30. The drug test indicated that D.P. had not used marijuana or any other tested substance for thirty days.
31. D.P. advised Principal Britford of the results of his drug test, but Principal Britford told him that they were neither relevant nor conclusive.
32. D.P. was suspended for twelve days before a disciplinary hearing was held.

42. From the outset of D.P.'s hearing, the allegations against him were unclear. When he outlined the reasons for the hearing against D.P., Principal Britford did not specifically allege that D.P. sold, purchased, possessed or used marijuana on November 22, 2019. Instead, Principal Britford vaguely alleged that "several students" left class, went to the car, "smoked," and returned to class.
43. This allegation was based on hearsay reports of unidentified students.

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62. D.P. also presented his negative drug test results to the Board He was told by the
Superintendent that presenting this evidence was a “waste of time” because the Board
hearing was not a “court of law.”

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V. Legal Claims

84. Defendants improperly infringed and denied D.P.'s rights in a proceeding resulting in his suspension and exclusion from GHS, a public school.

85. Defendants improperly infringed and denied D.P.'s rights by (1) issuing an arbitrary and capricious decision that was unsupported by evidence,(2)

Count 3: Violation of D.P.'s Right to Procedural Due Process

102. Public school students facing suspension or exclusion from school for disciplinary reasons have both a property and reputational liberty interest that qualify for protection under the Due Process Clause of the Fourteenth Amendment of the United States Constitution. *Goss v. Lopez*, 419 U.S. 565, 574 (1975).
103. A local board of education may not infringe on a student's right to a public education on grounds of misconduct absent "fundamentally fair procedures to determine whether some kind of misconduct has occurred." *Id.*
104. "[W]hen the basic constitutional rights of students are at issue, [courts] cannot avoid

112. Defendants reached a predetermined conclusion based on information obtained outside of D.P.'s hearing and not subject to review by D.P.
113. Defendants failed to independently consider the merits of D.P.'s case to determine whether he had violated the Code of Conduct as alleged.
114. Defendants deprived D.P. of the opportunity to confront and cross-examine adverse witnesses.
115. Defendants arbitrarily denied D.P. the protections guaranteed by Board policy.
116. Defendants failed to establish that D.P. violated the Code of Conduct prior to excluding him from GHS.
117. Defendants disciplined D.P. despite a lack of evidence substantiating the specific allegations against him.
118. Defendants' failure to adhere to the minimum procedures required by the Due Process Clause resulted in an abuse of discretion and an arbitrary deprivation of D.P.'s right to a public education.

VI. PRAYER FOR RELIEF

D.P. respectfully requests that this Court:

- i. Find that Defendants' disciplinary decision improperly denied or infringed D.P.'s rights;
- ii. Reverse Defendants' disciplinary decision against D.P.;
- iii. Correct

