

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(CAMDEN VICINAGE)

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UNITED STATES
DISTRICT COURT

ANEQUA R. JOYCE, a minor, by her mother
and legal guardian,
and
GLENDON DURHAM, a minor, by his mother
and legal guardian,
and
DORETIA WATERS-RICE, in her own right
and on behalf of Anequa R. Joyce and Glendon
Durham,

Plaintiffs,

CIVIL ACTION NO. 04-5345 (RBK)

v.

CITY OF SEA ISLE CITY, and SEA ISLE
CITY BOARD OF EDUCATION, and SEA
ISLE CITY SCHOOL, and JOANN SMITH,
individually, and in her official capacity as
Chief School Administrator of Sea Isle City
School, and ANGELA DAVENPORT,
individually, and as agent, servant, and
employee of Sea Isle City School, and GAIL
RODGER, individually, and as agent, servant,
and employee of Sea Isle City School, and
CITY OF SEA ISLE CITY, NEW JERSEY,
POLICE DEPARTMENT, and
WILLIAM J. KENNEDY, individually, and in
his official capacity as the Chief of the Sea Isle
City, New Jersey, Police Department, and in his
official capacity as the President of the Sea Isle
City Board of Education, and JAMES
IANNONE, individually, and in his official
capacity as the Police Commissioner of the Sea
Isle City, New Jersey, Police Department, and
J. GANSERT, individually, and as agent,
servant, and employee of Sea Isle City, New
Jersey, Police Department, and JANE AND
JOHN DOES, 1-5, individually,

Defendants.

JURY TRIAL DEMANDED

COMPLAINT - CIVIL ACTION

I. INTRODUCTION

1. Plaintiffs, Anequa R. Joyce age 9 ("Anequa"), Glendon Waters, age 14 ("Glendon") and Doretha Waters-Rice ("Doretha") commenced this litigation to recover, inter alia, compensatory damages, punitive damages, injunctive relief and attorneys' fees for violations by the defendants of the plaintiffs' rights under the Constitution and laws of the United States of America, as well as the laws of the State of New Jersey. The Plaintiffs have been subjected to a policy, custom, pattern and practice of deep-rooted, community-wide racial discrimination and bias which exists in the public school system, the police department and the community at large. This wrongful conduct includes, but is not limited to, the following:

- (i) Anequa was denied the opportunity to participate in the school Christmas play in 2003 because she was black, and was ordered to sit on the floor by herself while her fellow class-mates practiced for the play;
- (ii) on one or more occasions Defendant Rodger referred to Anequa as a "nigger" in the presence of Anequa's class-mates, thereby causing students to ignore, avoid and ostracize Anequa; (iii) Defendant Smith referred to the Plaintiffs as "niggers" in the presence of Glendon; (iv) Defendant Davenport referred to Anequa as an "animal" in the presence of Anequa's class-mates, thereby causing students to ignore, avoid and ostracize Anequa; (v) Anequa was and continues to be denied the opportunity to ride the bus to school because she is black, while a white class-mate of Anequa's who lives across the street is permitted to and does ride the bus to school; (vi) when Doretha complained to the school about the discriminatory treatment directed to Anequa, various school officials trumped up false criminal charges against Doretha, caused her house to be searched and ransacked in the presence of Doretha's son, Louis Waters, and caused Doretha to be wrongly arrested and charged with a crime that she did not commit (the

trumped-up criminal charges were mysteriously dropped once the "message" was sent); (vii) Anequa and Glendon have been ostracized by the school and their class-mates (both being called "nigger" on numerous occasions), and caused to suffer significant and possibly permanent, embarrassment, physical and emotional distress; (viii) Glendon has been physically assaulted on numerous occasions by other students in the presence of school officials, which officials implicitly encourage the attacks and racial discrimination by intentionally turning away and pretending not to know what is truly going on; (ix) on one occasion when Anequa suffered from physical manifestations caused by the racial discrimination, the police arrived at Doretha's home and refused to carry Anequa to the waiting ambulance because she was black; (x) local establishments refuse to serve Doretha and her family; (xi) Doretha receives threatening telephone calls spewing racial epithets and has had her tires slashed; and (xii) the police conspicuously appear and remain in front of Doretha's home from time to time in an effort to intimidate Doretha and her family and to cause Doretha and her family to move out of Sea Isle City, where blacks are apparently not welcome.

II. PARTIES

The Plaintiffs

2. Plaintiff, Anequa R. Joyce ("Anequa"), is a black female, age 9, who resides with her mother and legal guardian Doretha Waters-Rice at 122 - 43rd Street, Sea Isle City, New Jersey 08243.
3. Plaintiff, Glendon Durham ("Glendon"), is a black male, age 14, who resides with his mother and legal guardian Doretha Waters-Rice at 122 - 43rd Street, Sea Isle City, New Jersey 08243.
4. Plaintiff Doretha Waters-Rice ("Doretha"), is a black female who resides with her husband, Walter Rice and her children at 122 - 43rd Street, Sea Isle City, New Jersey 08243.

The Defendants

5. Defendant, City of Sea Isle City ("Sea Isle City"), is a city in the State of New Jersey with an address of 4416 Landis Avenue, Sea Isle City, New Jersey 08243.

6. Defendant, Sea Isle City Board of Education ("Board of Education"), is an association with an address of 4501 Park Road, Sea Isle City, New Jersey 08423. At all times material hereto, Defendant Board of Education oversaw the Sea Isle City School and was responsible for establishing and enforcing the policies, practices, and regulations for the School.

7. Defendant, Sea Isle City School (the "School"), is the only school located in the City of Sea Isle City and encompasses grades pre-kindergarten through eight. The School is located at 4501 Park Road, Sea Isle City, New Jersey, 08243.

8. Defendant, Joann Smith ("Smith"), a white female, is the Chief School Administrator at the School, with an office at 4501 Park Road, Sea Isle City, New Jersey, 08243. At all times material hereto, Defendant Smith was responsible for establishing and enforcing the policies, practices, and regulations for the School.

9. Defendant Angela Davenport ("Davenport"), a white female, is the Curriculum Coordinator at the School, with an office at 4501 Park Road, Sea Isle City, New Jersey, 08243.

10. Defendant, Gail Rodger ("Rodger"), a white female, is the music teacher at the School, with an office at 4501 Park Road, Sea Isle City, New Jersey, 08243.

11. Defendant, City of Sea Isle City, New Jersey, Police Department (the "Police Department"), is located at 233 J.F.K. Boulevard, Sea Isle City, New Jersey 08243-0700.

12. Defendant, William J. Kennedy ("Kennedy"), a white male, is the Chief of the Police

Department, as well as the President of the Board of Education, with an office address of 233 J.F.K. Boulevard, Sea Isle City, New Jersey 08243-0700. At all times material hereto, Defendant Kennedy was responsible for establishing and enforcing the policies, practices, and regulations for the Police Department and the School.

13. Defendant, James Iannone ("Iannone"), a white male, is the Police Commissioner of the Police Department, with an office address of 233 J.F.K. Boulevard, Sea Isle City, New Jersey 08243-0700. At all times material hereto, Defendant Iannone was responsible for establishing and enforcing the policies, practices, and regulations for the Police Department.

14. Defendant J. Gansert ("Gansert"), a white male, is a police officer with the Police Department, with a place of business at 233 J.F.K. Boulevard, Sea Isle City, New Jersey 08243-0700.

15. Defendants, Jane and John Does, 1 - 5, are individuals whose names are not known (including police officers and employees of the School), and who conspired with one or more of the other Defendants and/or who engaged in similar wrongdoing against the plaintiffs. When the names of these defendants become known, they will be substituted.

16. At all times material hereto, the individual defendants acted individually and within their official capacities, under color of state law, and within the scope of their employment as school officials, police department employees or other government officials.

III. JURISDICTION AND VENUE

17. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1331, 1343 and 1367.

18. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b), because the

Defendants reside, and the unlawful conduct complained of herein occurred, in this District.

IV. FACTUAL ALLEGATIONS

19. In the summer of 2003, Dorcetha married Walter Rice ("Rice"), who is white, and moved with her family, including Anequa and Glendon, into Rice's home at 122-43rd Street, Sea Isle City, New Jersey 08243.

20. Anequa and Glendon enrolled in the School for the start of the 2003-2004 school year, began attending the School in the fall of 2003, and continue to attend the School as of the filing of this Complaint.

21. The School holds an annual Christmas play, in which the students participate.

22. On or about Friday, November 21, 2003, Defendant Rodger informed Anequa—who was in second grade at the time—that Anequa would not be permitted to participate in the school play because she was "different," a code-word for black. Defendant Rodger excluded Anequa from the Christmas play because she was black and Defendant Rodger and some or all of the other defendants discriminated against Anequa on the basis of her race.

23. As the other students were participating in the Christmas play related activities, Defendant Rodger instructed Anequa to sit by herself on the floor and to draw pictures.

24. On Friday, November 21, 2003, Anequa returned home in tears and explained to her family that Defendant Rodger excluded her, and only her, from the Christmas play. Anequa was so traumatized by the racial discrimination that, shortly after it first occurred she was observed by her family pouring white powder over her face in an effort to look white, and to be accepted by her class-mates,

teachers and the School.

25. On or about Monday, November 24, 2003, Doretha, Walter Rice, and family friend Sarah Schaeffer ("Schaeffer") went to the School to question school officials concerning Anequa having been excluded from participating in the Christmas play.

26. When they arrived at the School, they were met by a man believed to be Mr. Fiedler and the assistant principal of the School. After Doretha explained why she was there, Fiedler ushered Doretha, Rice, and Schaeffer into a conference room and they were joined shortly thereafter by Defendants Rodger and Smith.

27. Upon being confronted by Doretha about Anequa's exclusion from the Christmas play, Defendant Rodger looked to Defendant Smith for a sign, provided no explanation and left the room.

28. During the meeting, Defendant Smith talked to Doretha, Rice and Schaeffer in a condescending and arrogant manner, bluntly stating to Doretha that Defendant Smith had black friends, who she referred to as "your kind of people" and that Smith's husband taught "blackies" and "darkies" in another school.

29. Shortly after the meeting at the School on Monday November 24, 2003, numerous Sea Isle City police officers (approximately 10 - 12) - led by Defendant Gansert - appeared at the Plaintiffs' residence, surrounded it, and barged in with a warrant for the arrest of Doretha. The arrest warrant charged Doretha with terroristic threats, specifically alleging that, while meeting with school officials earlier that day, Doretha threatened to kill Defendants Smith and Rodgers with a butcher's knife.

30. When Defendant Gansert and the army of other police officers arrived at the Plaintiffs' home, it was made clear to Defendant Gansert by Doretha's son, Louis Waters, that Doretha was not

home. Defendant Gansert and the other police officers barged into the home, conducted a destructive search of the home and attempted to intimidate Louis and Walter Rice, who were present at the time.

31. As all Defendants who participated in the process were well aware at the time, the criminal charges against Doretha were trumped-up, known to be false and filed solely to intimidate Doretha and her family into keeping quiet about the racial discrimination being perpetrated upon Ancqua and Glendon.

32. When Doretha returned home that same day and found out that the police had been there with a warrant for her arrest, she turned herself in and was released on her own recognizance.

33. On or about Tuesday, November 25, 2003, Defendant Gansert returned to Plaintiffs' house, again with an army of 10-12 officers, entered the home and told Doretha that the allegations made against her were true because "your type of people do shit like that," and he referred to Doretha as a "nigger."

34. While Defendant Gansert was in the Plaintiffs' home on Tuesday November 25, 2003, Doretha's son, Daniel Young, tape recorded Defendant Gansert's racially prejudiced remarks concerning Doretha.

35. At some point during the incident, Defendant Gansert became aware that he was being tape recorded, confiscated the tape, and destroyed it.

36. Less than a month later, the trumped-up criminal charges filed against Doretha were mysteriously dropped without any reason being provided.

37. On various occasions, Defendant Rodger has called Ancqua a "nigger" in the presence of other students.

38. In or about December, 2003, Defendant Smith referred to the Plaintiffs' family as "niggers"

in the presence of Glendon.

39. Glendon has been physically assaulted on numerous occasions by other students in the presence of school officials, which officials implicitly encourage the attacks and racial discrimination by intentionally turning away and pretending not to know what is truly going on.

40. In or around January, 2004, Plaintiff Doretha was visited by a Division of Family Services Worker who stated that he was concerned about her welfare due to statements made to him by school officials that Doretha might kill herself because the school officials had "pushed her too hard."

41. In or about September or October, 2004, Defendant Davenport entered a room at the School where Anequa was present along with several other students and, while looking directly at Anequa, stated, "it smells like an animal in here."

42. Anequa is not permitted to ride the bus to school despite the fact that the bus stops directly in front of her house and the fact that other students in Anequa's grade at school regularly ride the same bus to the School and, in fact, get on the bus when it stops directly in front of Anequa's house.

43. As a result of the various racially motivated unlawful acts committed by the Defendants, both Anequa and Glendon have been forced to go to school and to attempt to learn and grow, on a daily basis, in an environment that is intimidating, hostile, and hateful. This has resulted in serious physical and emotional damage to both Anequa and Glendon, some or all of which may be permanent in character.

44. At all times material hereto, Defendant Sea Isle City and Defendant Board of Education, through Defendants Kennedy, Smith and Rodger, knew or should have known of the pervasive racial discrimination at the School, to which Plaintiffs Anequa and Glendon have been and continue to be subjected on a regular basis.

45. Despite Defendant Sea Isle City's and Defendant Board of Education's actual and/or constructive knowledge of the unlawful conduct herein, Defendant Sea Isle City and Defendant Board of Education failed and/or refused to take corrective action to end the hostile, intimidating, and racially discriminatory environment at the School and, through their inaction, condoned the unlawful conduct.

46. From time to time, the police conspicuously appear and remain in front of the Doretha's home in an effort to intimidate Doretha and her family and to cause Doretha and her family to move out of Sea Isle City, where blacks are apparently not welcome.

47. Upon information and belief, the Plaintiffs aver that another black family was recently discriminated against in a similar fashion by the School and the community and that such discrimination was successful in achieving its unlawful purpose—to force the other black family to leave the School and to move out of Sea Isle City.

48. At all times material hereto, Defendant Sea Isle City and Defendant Police Department, through Defendants Kennedy, Iannone, and Gansert knew or should have known of the pervasive racial discrimination at the Police Department to which Doretha and her family were subjected.

49. Despite Defendant Sea Isle City's and Defendant Police Department's actual and/or constructive knowledge of the unlawful conduct herein, Defendant Sea Isle City and Defendant Police Department failed and/or refused to take corrective action to end the hostile, intimidating, and racially discriminatory practices of the Police Department and, through their inaction, condoned the unlawful conduct.

50. As a result of the unlawful conduct of the Defendants, the Plaintiffs have suffered, and continue to suffer, sever physical, mental, and emotional injuries, distress, pain and suffering, some of which

may be permanent in nature.

51. The Defendants acted in concert and agreement with each other, with the purpose and intent of discriminating against the Plaintiffs on the basis of race, and in an effort to intimidate Doretha and her family and to cause Doretha and her family to move out of Sea Isle City, where blacks are apparently not welcome.

52. The conduct of the Defendants, as aforesaid, was intentional, wanton, wilful and outrageous, thereby subjecting the Defendants, and each of them, to liability for punitive damages.

FIRST CLAIM FOR RELIEF
42 U.S.C. § 1983

53. The allegations and averments contained in paragraphs 1 through 52 above are incorporated by reference herein, as if fully set forth.

54. The conduct of the Defendants, as aforesaid, constitute a pattern, practice, policy and custom of racial discrimination against Plaintiffs in violation of 42 U.S.C. § 1983.

55. The unlawful conduct of the Defendants, as aforesaid, was engaged in and perpetrated under color of state law.

56. The Defendants, acting under color of state law, subjected the Plaintiffs to, and caused the Plaintiffs to be subjected to deprivations of their rights, privileges and immunities under the Constitution and laws of the United States, thereby subjecting them to liability under 42 U.S.C. § 1983.

57. As a result of the Defendants' wrongdoing, the Plaintiffs have suffered the harm previously set forth.

SECOND CLAIM FOR RELIEF

42 U.S.C. § 1985

58. The allegations and averments contained in paragraphs 1 through 57 above are incorporated by reference herein, as if fully set forth.

59. The conduct of the Defendants, as aforesaid, constitutes an unlawful conspiracy against Plaintiffs in violation of 42 U.S.C. § 1985.

60. The Defendants conspired to deprive the Plaintiffs of the equal protection of the laws and of the equal privileges and immunities under the Constitution and laws of the United States, thereby subjecting them to liability under 42 U.S.C. § 1985.

61. As a result of the Defendants' wrongdoing, the Plaintiffs have suffered the harm previously set forth.

THIRD CLAIM FOR RELIEF

NEW JERSEY LAW AGAINST DISCRIMINATION

62. The allegations and averments contained in paragraphs 1 through 61 above are incorporated by reference herein, as if fully set forth.

63. The conduct of the Defendants, as aforesaid, constituted unlawful discrimination, and violated the civil rights of the Plaintiffs, in violation of the New Jersey Law Against Discrimination. N.J.S.A. 10:5-1 et seq.

64. As a result of Defendants' violations of the New Jersey Law Against Discrimination, the Plaintiffs have suffered the harm previously set forth.

**FOURTH CLAIM FOR RELIEF
NEW JERSEY CONSTITUTION**

65. The allegations and averments contained in paragraphs 1 through 64 above are incorporated by reference herein, as if fully set forth.

66. The conduct of the Defendants, as aforesaid, constituted unlawful discrimination, and violated the civil rights of the Plaintiffs, in violation of the New Jersey Constitution, including Article I, Paragraphs 1, 5, and 6.

67. As a result of Defendants' violations of the New Jersey Constitution, the Plaintiffs have suffered the harm previously set forth.

**FIFTH CLAIM FOR RELIEF
Plaintiff Doretha Waters-Rice v. All Defendants
CLAIM FOR MALICIOUS PROSECUTION**

68. The allegations and averments contained in paragraphs 1 through 67 above are incorporated by reference herein, as if fully set forth.

69. The Defendants instituted a criminal action against the Plaintiff.

70. The criminal action instituted by the Defendants against the Plaintiff was actuated by malice.

71. There was no probable cause for the Defendants to institute the criminal action against the Plaintiff.

72. The criminal action that the Defendants instituted against the Plaintiff was terminated favorably to Doretha.

73. The Defendants conduct constituted a malicious prosecution and the Defendants are liable

for those damages which flow from their conduct.

74. As a result of the Defendants' conduct, Doretha suffered damages.

PRAYER FOR RELIEF

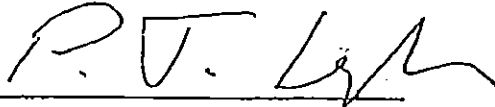
WHEREFORE, Plaintiff's demand that judgment be entered in their favor and against the Defendants, jointly and severally, and that Plaintiffs be awarded the following relief:

- (i) Compensatory damages for each Plaintiff in an amount in excess of \$150,000.00;
- (ii) Punitive damages for each Plaintiff in an amount to be set by the jury;
- (iii) An order permanently enjoining the Defendants, and their officers, agents, servants, employees, and successors from continuing to engage in the aforesaid unlawful conduct, and mandating that the Defendants, and their officers, agents, servants, employees, and successors implement, publicize, and enforce policies and practices to ensure that such unlawful conduct is eradicated and no longer tolerated;
- (iv) Reasonable attorneys' fees, costs, and related litigation expenses pursuant to 42 U.S.C. § 1988(b), and N.J.S.A. 10:5-27.1; and
- (v) Such other and further relief as the Court deems just and proper under the circumstances.

JURY DEMAND

Plaintiffs hereby demand a trial by jury on all issues and claims.

KAUFMAN, COREN & RESS, P.C.



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Dated: November 1, 2004

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