

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA

TINA KOONTZ,  
As Natural Guardian For  
JESSICA SORENSEN,

Case No:

Plaintiff,

v.

KATHERINE DUSTIN, in her individual  
and official capacities, and  
THE SCHOOL BOARD OF SUMTER  
COUNTY, FLORIDA,

Defendants.

---

**COMPLAINT AND DEMAND FOR INJUNCTIVE RELIEF**

COMES NOW, Plaintiff, TINA KOONTZ as Natural Guardian For JESSICA SORENSEN (“Sorensen”), by and through undersigned counsel, and hereby files this complaint for damages, injunctive relief and declaratory relief against Defendants KATHERINE DUSTIN (“Dustin”) and THE SCHOOL BOARD OF SUMTER COUNTY, FLORIDA (“SBSC”) for violation of her rights under the Fourth and Fourteenth Amendments to the United States Constitution, and hereby alleges as follows:

**Introduction**

1. Jessica Sorensen, an eighth grade student at Sumter Middle School (or “the School”), which is operated by SBSC, was suspended for two days after refusing to consent to an unwarranted search of her book bag and purse on October 27, 2008. Katherine Dustin, principal of Sumter Middle School, found that Ms. Sorensen had

committed a Level II Infraction when she refused Dustin's demand that Dustin be allowed to search her purse and book bag, even though Dustin had no reasonable necessity for the search. The suspension removed Ms. Sorensen from regular classes, stained her academic record and violated her Fourth and Fourteenth Amendment rights.

2. The retaliatory and disciplinary acts taken by Defendants against Ms. Sorensen violated Ms. Sorensen's freedom from unreasonable searches guaranteed by the Fourth and Fourteenth Amendments. The unjustifiable two day suspension cast a pall on Ms. Sorensen's otherwise excellent academic record. Accordingly, Jessica Sorensen seeks declaratory and injunctive relief against Defendants KATHERINE DUSTIN, both in her individual and official capacities, and SBSC and asks this Court to order the redaction or expunction of Ms. Sorensen's disciplinary record of this matter.

### **Jurisdiction**

3. Plaintiff brings this action pursuant to 42 U.S.C. § 1983 for violation of her rights under the Fourth and Fourteenth Amendments to the United States Constitution.

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3). Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202, and injunctive relief pursuant to Fed.R.Civ.P. 65.

### **Venue**

5. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. §1391(b) because each Defendant resides or has its principal place of business in this district and the unlawful activities complained of and the actions that give rise to the claims herein occurred within this district.

### **Parties**

6. At all times material hereto, Plaintiff, JESSICA SORENSEN, (“Ms. Sorensen”) was a middle school student in her eighth grade year at Sumter Middle School located in Sumter County, Florida.

7. At all times material hereto, Defendant, KATHERINE DUSTIN (“Dustin”) was the principal of Sumter Middle School.

8. Plaintiff sues Defendant Dustin in her individual and official capacities.

9. The School Board of Sumter County, Florida is a legal entity created by Section 1001.30, Florida Statutes, and is subject to suit pursuant to Section 1001.41, Florida Statutes. SBSC owns and operates Sumter Middle School. SBSC and Sumter Middle School receive federal funding. SBSC is the employer of Dustin.

### **Facts**

10. On October 27, 2008, Sorensen was an eighth grade student at Sumter Middle School.

11. After school recessed on October 27, 2008, Ms. Sorensen and an unknown number of other students boarded a bus to be taken home. While students were on the bus, a male student stated that he had a bomb.

12. Ms. Dustin and Mr. Fields, assistant principal at Sumter Middle School, questioned the male student who had stated that he had a bomb and determined that he did not have a bomb.

13. After Ms. Dustin and Mr. Fields determined that the male student did not have a bomb, Ms. Dustin announced that she and Mr. Fields were going to have the bus

searched and that all of the students on the bus were to leave the bus so that their belongings could be searched.

14. The actions of Ms. Dustin and Mr. Fields indicated that they had determined no serious bomb threat existed. Neither Ms. Dustin nor Mr. Fields requested that a law enforcement officer, as defined by Section 943.10, Florida Statutes, conduct or participate in the search of the bus or the possessions of the students. Neither Ms. Dustin nor Mr. Fields requested that any person trained or qualified to detect explosive devices search the bus and the possessions of the students who had been on the bus nor did they consult with a person with such credentials before searching the bus and the students' possessions.

15. Mr. Fields searched the book bags and belongings of the male students and Ms. Dustin searched the female students.

16. When Ms. Dustin asked to search Ms. Sorensen's book bag and purse, Ms. Sorensen refused to allow Ms. Dustin to search her book bag and purse. Ms. Dustin told Ms. Sorensen that refusing to consent to the search would be a discipline issue. When Ms. Sorensen continued to refuse to consent to the search, Ms. Dustin instructed her to wait on a bench nearby.

17. After the children left the bus, the bus driver searched the bus Ms. Sorensen had been riding.

18. After all other students from the bus and the bus had been searched, the students other than Ms. Sorensen and the male student who had stated that he had the bomb were allowed to board the bus again. Ms. Dustin would not allow Ms. Sorensen to board the bus, and the bus departed without Ms. Sorensen. Ms. Dustin took Ms.

Sorensen to the School's administrative office and called Ms. Sorensen's parents and asked them to pick her up from the School. Ms. Sorensen waited in the administrative office until her father could pick her up. Ms. Sorensen kept possession and control of her book bag and purse at all times while still on school property.

19. Ms. Dustin imposed a two day in-school suspension as punishment for Ms. Sorensen's refusal to consent to the search.

20. Tina Koontz appealed Ms. Sorensen's suspension according to the Code of Student Conduct prepared and circulated by SBSC. SBSC, through Richard Shirley, Superintendent of Schools, denied Ms. Sorensen's appeal. The decision to deny Ms. Sorensen's appeal and ratify Ms. Dustin's actions was made pursuant to an official custom, policy or practice of SBSC and was a final decision with no further appeal available. Richard Shirley, Superintendent of Schools, had the authority to ratify Ms. Dustin's actions and bind SBSC.

21. Defendants' acts that are the subject of this complaint were taken under color of state law.

22. Defendant Dustin's two day suspension of Ms. Sorensen for refusing to consent to an unreasonable search of her possessions unjustifiably besmirched Plaintiff's academic record.

23. Plaintiff has no adequate remedy at law, because the denial of Plaintiff's Constitutional rights cannot be adequately remedied through legal relief.

24. Unless enjoined by this Court, Defendant's suspension of Ms. Sorensen for two days will stand as part of her permanent school record, unjustifiably staining her

academic reputation and good standing; removal of the suspension and any records relating to it is required to redress the violation of Sorensen's constitutional rights.

25. Plaintiff is therefore entitled to an order from this Court enjoining both Defendant Dustin and Defendant the School Board Of Sumter County, Florida from maintaining any records relating to the refusal to consent to the search and ordering Dustin and Sumter to revoke, *nun pro tunc*, the two day suspension.

### **CAUSE OF ACTION**

26. Defendant Dustin's two day suspension of Sorensen for refusing to consent to a search of her possessions violated Sorensen's clearly established Fourth and Fourteenth Amendments right to freedom from unreasonable searches.

27. The violation of Sorensen's constitutional rights may be redressed pursuant to 42 U.S.C. §1983.

### **Demand for Relief**

WHEREFORE, Plaintiff, JESSICA SORENSEN, respectfully requests this Court to:

- A. Assume jurisdiction of this matter.
- B. Declare that Defendants KATHERINE DUSTIN'S and the SCHOOL BOARD OF SUMTER COUNTY, FLORIDA'S action in suspending Plaintiff violated her Fourth Amendment and Fourteenth Amendment rights.
- C. Enjoin Defendants KATHERINE DUSTIN and the SCHOOL BOARD OF SUMTER COUNTY, FLORIDA from maintaining any records relating to the suspension in Plaintiff's permanent school record and revoking, *nunc pro tunc*, the two day suspension.

D. Award Plaintiff nominal damages less than twenty dollars (\$20.00) for the deprivation of her Fourth Amendment and Fourteenth Amendment rights.

E. Award Plaintiff her attorneys' fees and costs for bringing this action pursuant to 42 U.S.C. § 1988.

F. Enter all other relief that the court deems just and proper.

GEORGE BEDELL, P.A.



George C. Bedell III

Florida Bar No.: 363685

2525 Park City Way

Tampa, FL 33609

Telephone: (813) 875-6100

Facsimile: (813) 872-0718

Cooperating Attorney for the ACLU

Foundation of Florida, Inc. –

Greater Tampa Chapter

and

Rebecca H. Steele

Florida Bar No.: 67326

ACLU Foundation of Florida, Inc.

West Central Florida Office

P.O. Box 18245

Tampa, FL 33679-8245

(813) 254-3320

(813) 254-0926 (fax)

[rsteel@aclufl.org](mailto:rsteel@aclufl.org)

Attorneys for the Plaintiff