

the color of law or official authority, and/or some by means of a criminal conspiracy. Some such acts were individual, and some collective. Said acts were committed in Davidson County, Tennessee, where the Plaintiff was an employee of the Metro Nashville Public Schools. Said acts occurred at, or were a proximate result of other events at, Whites Creek High School (a school belonging to Defendant MNPS) in Whites Creek, Davidson County, Tennessee, and at other locations in Davidson County.

Particulars: Plaintiff — as a party that was previously employed by the primary Defendant (MNPS), and was terminated from said employment as a result of certain acts (whether by nonfeasance, misfeasance, or malfeasance — and some as a proximate result of Official Misconduct, which is a felony in the State of Tennessee) by the secondary Defendants (who acted as employees and agents of the primary Defendant, and also as public officers, except for Defendant Ezzie White) — hereby specifies the following.

1. That Plaintiff was previously a full-time, career employee of the primary Defendant, Metro Nashville Public Schools (MNPS). Specifically, Plaintiff was a "Sign Language facilitator", assigned to the Special Education department of Whites Creek High School. Plaintiff provided Sign Language interpretation for one deaf male teenage student, who has also been classified as mentally retarded.

2. That, as such, Plaintiff had a reasonable expectation of continued employment income and benefits until achieving a fully-vested retirement.

3. That on Tuesday, 20 February 2007, Plaintiff was at his workplace, with a reasonable expectation of safety and freedom from violence, and was engaged in the performance of his official duties.

4. That on said date, and at times before and since, Defendant MNPS was required by Tennessee Code Annotated (TCA) 20-14-108 to provide a safe workplace, free from violence. Further, that Defendants Jenkins and Meyers, in their role as public officers, were required to take reasonable actions to ensure a safe workplace; and, that said requirement was further specified by Tennessee education laws to include school security and discipline under TCA 49-6-4216, TCA 49-6-2008, TCA 49-2-303, *et al.*

5. That on the above date, while at his workplace and in the performance of his official duties, Plaintiff was assaulted by an unruly student (Kevin White, then-15-year-old son of Defendant Ezzie White). Plaintiff was typing a document to help his deaf student get a summer job at the Federal Building. Plaintiff had already negotiated a job opening for the student (shredding confidential documents --- which he could neither read nor discuss), and was typing the necessary paperwork to support the request.

6. That "normal" student Kevin White --- suddenly, and without provocation --- attempted to slap Plaintiff in the face. At the time, both were seated at computers in the school library. Kevin White was being loud and unruly, playing unauthorized computer games, and eating chips while seated at the computer. Plaintiff had told student White to be quiet, and to stop eating chips at the computer. Student White then assaulted Plaintiff.

7. That the Plaintiff (a former Air Force law-enforcement supervisor and leader of two counter-terrorist teams) instinctively raised his arm to protect his face and eyes when he saw a blur coming toward him. In the process, Plaintiff made contact with the student's arm, and instinctively grabbed the student's wrist to prevent the assault from

being consummated. Said assault by the student upon the Plaintiff constitutes a credible threat of workplace violence, as defined by TCA 20-14-101.

8. That on the above date, Plaintiff engaged in reasonable and lawful acts to defend himself from said assault. Plaintiff's acts of self-defense constituted "resistance sufficient to prevent the offense", as defined by TCA 38-2-102. Plaintiff's acts of self-defense also constituted "lawful actions of self-defense" as defined by TCA 20-14-101. At no time did the Plaintiff ever strike said student. This was supported by a police investigative report, *and* by both the student and Defendant Ezzie White in a subsequent probable cause hearing (in Davidson County General Sessions Court) against the Plaintiff. An assault charge against the Plaintiff is now retired for more than one year, and papers are pending to expunge the charge from the Plaintiff's record.

9. That on the above date, Plaintiff engaged in reasonable and lawful acts to contain the situation before it could escalate into further violence (as the unruly student attempted to summon approximately 15 other students in the immediate vicinity, and to incite them to commit a melee against the Plaintiff).

10. That on the above date, Plaintiff engaged in reasonable and lawful acts to restore order to the school library, to de-escalate the situation, and to remove the unruly student from the area. Using only reasonable measures, Plaintiff physically escorted the unruly student to the school's main office for any disciplinary action by the principal.

11. That on the above date, student Kevin White then assaulted the Plaintiff a *second* time, when the student attempted to punch the Plaintiff as they were in the hallway enroute to the office, in an attempt to avert disciplinary paperwork against him.

12. That on the above date, student Kevin White then assaulted the Plaintiff a *third time*— this time using the metal tip of an umbrella to stab repeatedly at Plaintiff's face. Said umbrella was picked up from a countertop in the school office. This assault was committed in the presence of several staff members, most of whom did *nothing* to assist the Plaintiff. (One even rushed to comfort the *student* after the Plaintiff snatched the umbrella from the student's grip!)

13. That on the above date, Plaintiff had a legal and reasonable expectation to be free from violence in the workplace. This expectation was reinforced by school district regulations stating that student violence against school staff "will not be tolerated".

14. That, neither on nor subsequent to the above date, did Defendant Jenkins meet his specific and affirmative moral and legal duty enforce school disciplinary action for this incident. (Tennessee education law requires a school principal to enforce discipline, as specified in TCA 49-2-303, and further requires a zero-tolerance policy against student assaults upon school staff, as specified in TCA 49-6-4216.) And, that such misfeasance rises to the level of felony Official Misconduct (TCA 39-16-402) by the part of secondary defendant Dr. Jamie S. Jenkins, the principal of Whites Creek H.S. at that time. Said misfeasance was assisted by certain officers of Defendant Metro Nashville Police Department — who, while assigned to "resource officer" duty, are under the day-to-day authority of the school principal, instead of the traditional police command structure.

15. That, subsequent to the above date, said defendant Dr. Jamie S. Jenkins released (to Defendant Ezzie White, the father of the unruly student) a copy of Plaintiff's typed "in-house" statement about the incident described above. Said statement had been

given to the Defendant as part of an internal MNPS investigation. As such, it was a personnel document, and it should have been safeguarded under privacy regulations. Such release constitutes malfeasance that rises to the level of Official Misconduct.

16. That said typed statement was used by the father of the student as a guide when filing a criminal complaint against the Plaintiff. Notably, the complaint was not filed until *two months* after the incident. But, said filing occurred only *four days* after the broadcast of a TV news story about the incident. The story embarrassed Defendants by revealing the lack of discipline and the prevalence of student-upon-staff violence within MNPS, and especially within Whites Creek High School where Plaintiff was employed. There is a strong appearance that Defendant Dr. Jamie S. Jenkins knowingly conspired with Defendant Ezzie White to use the Plaintiff's statement to help "doctor up" Mr. White's complaint. (The Plaintiff's statement was far more consistent and reliable than other witness statements, due to the Plaintiff's background.) Such collusion, with the intent of aiding in the malicious prosecution of criminal charges, constitutes felony official misconduct in violation of several subparagraphs of TCA 39-16-402.

17. That, during the course of the MNPS internal investigation, Defendant Margaret "Peggy" Meyer submitted a statement to Defendant Dr. Jamie S. Jenkins that she knew, or reasonably should have known, contained patently false information.

18. That said Defendant MNPS used Meyer's false information as part of the basis for the termination of Plaintiff's job. And, that Plaintiff had advised MNPS of the falsehood. Thus, the action of Defendant MNPS was both knowing and willful.

19. That the termination letter issued by Defendant MNPS contained false and misleading allegations that Plaintiff had "abused" the unruly student during the incident.

20. That said termination letter was later released, in violation of privacy regulations and internal policy, to the Tennessee Democratic Party, which then used that false reference to child abuse as the basis for an official news release against Plaintiff.

21. That said termination letter was one instrument by which Defendant MNPS violated the Plaintiff's civil rights by wrongfully terminating the Plaintiff's employment.

22. That said employment termination was racially motivated, in violation of the Plaintiff's civil rights under the cited Federal statutes, as shown by subsequent actions of Defendants MNPS and MNPD. Specifically, that Defendant Jenkins allowed students to behave abusively toward the Plaintiff (and toward other White members of the school staff, similarly situated), and that Defendant Jenkins allowed Black members of the school staff to "man-handle" unruly students with no adverse employee action. It strongly appeared to the Plaintiff that the employment termination was motivated in large part by an "unwritten rule" at Whites Creek High School that no White staff member is allowed to enforce reasonable and proper discipline upon a Black student. Simultaneously, there was a cultural climate at Whites Creek High School that Black students were allowed to speak and behave disrespectfully toward White staff members with no fear of any disciplinary action for such unruly behavior. Plaintiff had approached Defendant Jenkins several times about the lax discipline at WCHS, including the use of written memos. It appears that Defendant Jenkins used an unruly student's behavior as an opportunity to get rid of the Plaintiff, who was also the union steward for the support employees. Among

those support employees were the cafeteria workers. The Plaintiff had reported several times to Defendant Jenkins that the cafeteria workers — Black and White — were becoming afraid to come to work, because of the "wilding" activities of many WCHS students. The Plaintiff had informed Defendant Jenkins that a union action was being contemplated to compel Defendant Jenkins to obey state laws regarding discipline. Thus, the same set of facts proves that Defendant Jenkins had a bias against enforcing discipline upon Black students, and simultaneously proves that the Plaintiff had no racial bias. The Plaintiff only sought reasonable and equal enforcement of traditional disciplinary rules.

23. That Defendant MNPD, in collusion with the Metro Office of the District Attorney General, violated the Plaintiff's civil rights by maliciously prosecuting false criminal charges against the Plaintiff.

24. That Defendant MNPD, in collusion with Defendant Jenkins, by means of the two "resources officers" assigned to Whites Creeks High School (both of whom were Black), violated the Plaintiff's civil rights by refusing to take the Plaintiff's criminal complaint against the unruly student. Plaintiff had attempted to bring a criminal complaint against the student on the same day as the incident. One of the officers replied to the Plaintiff, "Now, you *know* that Dr. Jenkins will not let me do *that*." Said statement implies and evidences an ongoing MNPS internal policy — in violation of State laws regarding education *and* criminal offenses — to cover up incidents of student-upon-staff violence and to deprive potential complainants (such as this Plaintiff, and/or others similarly situated) of their right to bring such charges to the proper authorities for prosecution. This is a separate civil-rights violation by the Defendant(s).

25. That Defendant MNPD, in collusion with the Metro Office of the District Attorney General, violated the Plaintiff's civil rights by *refusing* to prosecute criminal charges against the student that had assaulted the Plaintiff. During the time that the Plaintiff had been placed on administrative leave (pending MNPS investigation), representatives of the DA Office refused several such requests, without explanation.

26. That Defendant MNPD, in collusion with Defendant Jamie Jenkins, utilized an internal MNPS personnel document (as described above) to bring said criminal charge, in violation of the Plaintiff's civil rights.

27. That the above collusion, because it involves the use of a document that was obtained by the police via the commission of a felony (Official Misconduct by Defendant Jenkins), rises to the level of a criminal conspiracy to violate the Plaintiff's civil rights.

28. That Plaintiff's reputation in the community, as a recent candidate for elected office in the United States House of Representatives (with more than 49,000 votes in the 2006 election), was severely damaged by said false allegations of child abuse.

29. That, as a result of the misfeasance and malfeasance by the Defendants, said false allegations were used against the Plaintiff in official news-release statements by the Tennessee Democratic Party, and then were published by the *Nashville Scene*, and the blogs hosted by WKRN TV-2, the *Nashville City Paper*, and others, to further damage the reputation and political effectiveness of the Plaintiff.

30. That, in the absence of a documented public apology by all Defendants, the political aspirations of the Plaintiff have been severely damaged as a proximate result of the injury to his reputation in the community. Plaintiff asserts that is actionable slander.

31. That, at a community meeting in 2008 (in the auditorium of Hillsboro High School), the Plaintiff publicly informed the new incoming Superintendent of Schools (Dr. Jesse Register) of the above situation, and of certain other misfeasance by other officers of Defendant MNPS, and asked whether the superintendent was planning to increase discipline and security in the schools. Dr. Register replied (on camera, although it was not broadcast), "I'm not going to turn the schools into a police state," thus minimizing the Plaintiff's legitimate concerns about the workplace climate in Nashville schools. By that statement, Superintendent Register also made it a continuation of official MNPS policy that the school district would not obey the state's laws regarding discipline and security.

32. That the statement of Dr. Register, having consulted with the School Board as a part of his process of being hired and getting situated in his new job, thus reflected an ongoing and intentional pattern of conduct and public policy, continued over from the administration of former superintendent Dr. Pedro Garcia. As such, it constitutes *prima facie* evidence that Defendant MNPS was aware of workplace violence and other offensive situations, and that Defendant MNPS was willfully ignoring and/or minimizing those situations — in knowing and willful violation of State laws — to the detriment and damage of the Plaintiff (and, possibly, also that of other persons similarly situated.)

33. That, because of the above, the workplace climate is an ongoing situation. As such, any attempt by the Defendant(s) to invoke a statute of limitations based upon the

date of any specific incident (e.g.: the student's assaults upon the Plaintiff, the date of the Plaintiff's administrative leave pending investigation, the date of the Plaintiff's termination, etc.) must logically fail. The damage continues to this day.

34. That other and similar incidents of student-upon-staff workplace violence have occurred in the Nashville district, as reported by various local news agencies, and as related to the Plaintiff by certain other persons (situated similarly to the Plaintiff) via e-mail and other means; and, that Defendant MNPS has taken little if any corrective action.

35. That so many such incidents occurred that Defendant was in the process of forming a not-for-profit organization (Change Our Schools) to combat the problem.

36. That damage to Plaintiff's reputation in the community is valued at a Congressman's salary of \$165,000 annually. And that, if elected, the Plaintiff could have reasonably expected to serve multiple terms (due to the "inherent power of incumbency", as widely recognized by political observers).

37. That, regardless of the results of any election, Plaintiff still suffered damage to his career — including any future promotions, pay raises, health benefits, and retirement.

38. That, when averaged across an expected 25-year career, said pay and benefits could reasonably be expected to have a value of at least \$35,000 annually.

39. That, if elected to Congress, the Plaintiff could have reasonably expected to get a leave of absence from his employer during his term. Thus, there would have been a reasonable expectation of later continued employment, regardless of any future elections.

40. That, in the demographic of his workplace at Whites Creek High School (which is approximately 65 percent Black), the Plaintiff was in a racial minority.

41. That, compared to the actions of Black adult staff members, the Plaintiff was held to an unreasonably higher standard with regard to his right to self-defense from assault, and with regard to his use of physical measures to restrain any unruly students.

42. That the Plaintiff was subjected to a wrongful termination of his employment, for the apparent reason of racial discrimination, in violation of his civil rights.

43. That the Plaintiff was subjected to a wrongful termination of his employment, for the apparent reason of official misconduct by the Defendants — especially with regard to the felony subornation of the malicious prosecution of a criminal complaint against the Plaintiff. Such an ongoing pattern of Official Misconduct (a felony in itself) constitutes a criminal conspiracy, and may constitute a "continuing criminal enterprise".

44. That the Plaintiff was subjected to workplace violence, likely intentionally.

45. That the Plaintiff, having suffered workplace violence, was denied justice, in significant violation of his civil rights, and by an ongoing criminal conspiracy to defy State laws that, if obeyed, would have prevented the incident that became the proximate cause of the tortious acts committed against the Plaintiff by the Defendant(s).

46. That the Plaintiff was subjected to undue mental stress and anguish as the proximate result of the Defendants' ongoing intentional pattern of Official Misconduct.

47. That the Plaintiff was subjected to undue mental stress and anguish as the proximate result of the Defendants' refusal to discipline the unruly student — thus sending a signal throughout the community that it is permissible for any student to physically assault any adult staff member of a school. Students read that signal, as evidence by a subsequent "spike" in the number of student-upon-staff assaults.

48. That said mental stress and anguish did manifest itself via physical symptoms and documented medical conditions — on two separate occasions, one of them requiring a months-long painful recovery from major surgery. Both said conditions began during the time that Plaintiff was employed at Whites Creek ~~Combat Zone~~ High School.

49. That the Plaintiff has suffered, and continues to suffer, damage to his ability to obtain new employment at a rate of pay comparable to his job with MNPS. This is due in part to the criminal charge that was brought, and that was later broadcast to the community by various news outlets. Plaintiff asserts that the criminal charge was false and malicious; and, that it arises from a foundation of official misconduct by Defendants.

50. That the proper venue for these civil-rights allegations is Federal Court.

51. That this honorable Court also has concurrent jurisdiction over the State and Federal criminal laws that have been violated by the Defendant(s); thus, this Court could refer criminal information(s) to the FBI and/or the TBI (as the statutorily-designated agency for investigating Official Misconduct) for any other appropriate actions against the Defendant(s), arising from these civil allegations.

52. That the statute of limitations on these allegations has not expired.

53. That the actual damages to Plaintiff's ability to earn an income as a career employee of Defendant MNPS totals \$875,000.

54. That the actual damage to Plaintiff's reputation in the community is estimated to be a total value of \$1,320,000. (Annual salary of a Congressman, times eight years.)

55. That the damage for the Plaintiff's physical pain (including surgical recovery), plus mental stress and anguish, are estimated to be a total value of \$125,000.

56. The Plaintiff hereby claims a total damage in the amount of \$2,320,000 per defendant, and certifies that no payment of any kind has been received regarding these damages.

57. The Plaintiff hereby asserts that each of the Defendants contributed separately to the alleged civil rights violations; and, thus, each should be severally liable for the specified damages — for a total of \$11,600,000.

58. Plaintiff also requests punitive relief in the amount of ten times the above for the intentional damage done to the Plaintiff's civil rights.

59. That the above damages do not include legal fees. That the legal time of this Plaintiff, *pro se*, is valued at \$125.00 per hour, and that the time required for research and preparation of this case (including previous lower-level acts, such as the defense of the malicious criminal charges, the drafting and service of Subpoenas in the criminal case, the construction and service of a Notice of Claim to the school district, and the reply to the district's answer to said Notice) so far required approximately 500 hours of billable time, for a total accumulated legal fee so far of \$62,500.

Summary of Relief Sought

1. Compensatory relief of \$875,000.00, for damage to Plaintiff's career.
2. Compensatory relief of \$1,320,000.00, for damage to Plaintiff's reputation in the community as a political leader and candidate.
3. Compensatory relief of \$125,000 for the Plaintiff's physical pain (including surgical recovery), plus mental stress and anguish.
4. Relief for *actual* damages to be awarded to the Plaintiff per Defendant, individually and severally; thus totaling \$2,320,000.00 each.
5. Punitive relief from each Defendant, individually and severally; in an amount of ten times the above actual relief, to compensate for damages done to the Plaintiff's civil rights under the color of law and/or authority.
6. An official public apology from the Metro Nashville Public Schools for the damage done to the Plaintiff's career and reputation (non-negotiable).
7. An official public apology from the Metro Nashville Police Department for the wrongful arrest of the Plaintiff, and for ignoring the Plaintiff's attempt to file a criminal complaint against the student (non-negotiable).

Dated this 21st day of September, 2009.

s/ Thomas F. Kovach
Thomas F. Kovach, Plaintiff, *pro se*