

CJ-2023-1168
Andrews



IN THE DISTRICT COURT OF OKLAHOMA COUNTY
FILED IN DISTRICT COURT
OKLAHOMA COUNTY

STATE OF OKLAHOMA

MAR -3 2023

RICK WARREN
COURT CLERK

125 _____

KRISTAL TRENKAMP, individually and as a
parent and next of kin of S.W., a minor child,)

Plaintiffs,)

v.)

EDMOND PUBLIC SCHOOLS, VERONICA)
JOHNSON, an individual, HEARTLAND)
MIDDLE SCHOOL)

Defendants.

Case No. **CJ - 2023 - 1168**

PETITION

COMES NOW the Plaintiff, Kristal Trenkamp, individually and as parents and next of kin of S.W., a minor child, and for their Petition against the above named Defendants, states as follows:

I. PARTIES

1. Plaintiff, Kristal Trenkamp, is an individual residing in Oklahoma County, Oklahoma.
2. Plaintiff, S.W., is a minor child residing in Oklahoma County, Oklahoma and is the daughter of Kristal Trenkamp.
3. Defendant, Edmond Public Schools, is an educational institution of the State of Oklahoma located in Oklahoma County, Oklahoma.
4. Defendant, Veronica Johnson, is an individual employed as Principal of Heartland Middle School which is under the control and supervision of Edmond Public Schools.
5. Defendant, Heartland Middle School, is an educational institution of the State of Oklahoma, located in Oklahoma County, Oklahoma.

II. JURISDICTION AND VENUE

6. All the relevant actions occurred in Oklahoma County, Oklahoma, and Defendants can be served in Oklahoma County as the principal place of operation of Heartland Middle School and Edmond Public Schools; therefore, jurisdiction and venue are proper in this Court.

III. FACTS

7. S.W. is a minor child, formerly enrolled at Heartland Middle School on the date of the incident, May 10, 2021.
8. S.W. was improperly and unreasonably subjected to a strip search conducted by Principal, Veronica Johnson employed by Edmond Public Schools at Heartland Middle School.
9. S.W. was searched on suspicion of having a nicotine vape.
10. The search took place in a room with an uncovered window that has a clear view to general access areas of the school.
11. The search was conducted in front of Veronica Johnson, a school resource officer, and another minor student.
12. During the search, S.W. was commanded by Principal Veronica Johnson to lift her shirt, exposing her bare abdomen and the top of her boxers, and spin.
13. Following the exposure of S.W.'s abdomen and action of spinning, Principal Veronica Johnson then inquired about what undergarments S.W. was wearing under her pants.
14. Principal Veronica Johnson commanded S.W. to lift her shirt up high enough so Principal Veronica Johnson could view the minor child's bra.
15. No nicotine vape was found.

IV. CAUSES OF ACTION

FIRST CAUSE OF ACTION **Intentional Infliction of Emotional Distress**

16. Plaintiffs incorporate herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, and for her first cause of action, against each of the Defendants:
17. The acts of each Defendant described herein were wrongful, extreme, and outrageous, transcending the bounds of all human decency.
18. That despite having been informed by S.W. she was not in possession of a nicotine vape, the Defendant proceeded to request her to partially remove or lift her clothing exposing her bare skin with the intention or recklessness to cause severe emotional distress upon the Plaintiff beyond that which a reasonable person could be expected to endure.
19. As a result of these wrongful acts, Plaintiff has suffered extreme emotional distress and hardship.

WHEREFORE, Plaintiff prays for this Court to grant judgment in her favor and against all Defendants for intentional infliction of emotional distress causing actual damages in a minimum amount in excess of \$25,000.00, plus statutory interest until the date judgment is paid, for punitive and exemplary damages to be determined by the jury at the time of trial; and, for such other and further relief as the Court deems appropriate and just; and

SECOND CAUSE OF ACTION
Negligence

20. Plaintiffs incorporate herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, and for their second cause of action, against each of the Defendants:
21. The Defendants owed a duty of care to the victim, S.W.
22. The duty of care owed to the victim was breached during the illegal strip search.
23. This breach of duty caused injury to the victim and resulted in costs for the victim including medical expenses, moving costs, lost wages, and pain and suffering.
24. That Defendants either knew or should have known the request for S.W. to lift her shirt and expose her undergarments in the presence of another student and in front of a window with a view allowing access to the inside of the school was improper and negligent on the part of the Defendants.
25. That the Defendants did not exercise the care which a reasonably careful person would use under the circumstances to determine whether a search should be conducted.

WHEREFORE, Plaintiff prays for this Court to grant judgment in her favor and against all Defendants for negligence causing actual damages in a minimum amount in excess of \$25,000.00, plus statutory interest until the date judgment is paid, for punitive and exemplary damages to be determined by the jury at the time of trial; and, for such other and further relief as the Court deems appropriate and just; and

THIRD CAUSE OF ACTION
Violation of Edmond Public School Policy #4820

26. Plaintiffs incorporate herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, and for their third cause of action, against each of the Defendants:
27. Edmond Public School Policy #4820 states, "The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of

the infraction. ***In no event shall a strip search of a student be allowed.*** No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search." (Edmond Public School Policy #4810 ¶ 2)

28. There was no warrant obtained for the search.
29. That a shirt does not constitute "cold weather outerwear", and the request to have S.W. raise her shirt, exposing her undergarments was in direct violation of this policy.
30. Exposure of S.W.'s bare abdomen and undergarments constitutes a strip search, which is in clear violation of the above policy.
31. This school policy lacks any mention or clause allowing students to be searched for a nicotine vape, and the search was in violation of S.W.'s Fourth Amendment rights.
32. The search has caused Plaintiffs extreme emotional distress and hardship.

WHEREFORE, Plaintiff prays for this Court to grant judgment in her favor and against all Defendants for violation of Edmond Public School Policy #4820 causing actual damages in a minimum amount in excess of \$25,000.00, plus statutory interest until the date judgment is paid, for punitive and exemplary damages to be determined by the jury at the time of trial; and, for such other and further relief as the Court deems appropriate and just; and

FOURTH CAUSE OF ACTION
Violation of Oklahoma Law 70 O.S. § 24-102

33. Plaintiffs incorporate herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, and for their fourth cause of action, against each of the Defendants:
34. Oklahoma Law 70 O.S. § 24-102 states, "The extent of any search conducted pursuant to this section shall be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. ***In no event shall a strip search of a student be allowed.*** No student's clothing, except cold weather outerwear, shall be removed prior to or during the conduct of any warrantless search." (Okla. Stat. 70 § 24-102 ¶ 2)
35. There was no warrant obtained for the search.
36. That a shirt does not constitute "cold weather outerwear", and the request to have S.W. raise her shirt, exposing her undergarments was in direct violation of this statute.
37. Exposure of S.W.'s bare abdomen and undergarments constitutes a strip search, which is in clear violation of the above statute.

38. This statute lacks any mention or clause allowing students to be searched for a nicotine vape, and the search was in violation of S.W.'s Fourth Amendment rights.
39. The search has caused Plaintiffs extreme emotional distress and hardship.

WHEREFORE, Plaintiff prays for this Court to grant judgment in her favor and against all Defendants for violation of Oklahoma Law 70 O.S. § 24-102, causing actual damages in a minimum amount in excess of \$25,000.00, plus statutory interest until the date judgment is paid, for punitive and exemplary damages to be determined by the jury at the time of trial; and, for such other and further relief as the Court deems appropriate and just; and

FIFTH CAUSE OF ACTION

Violation of Oklahoma Statute Title 21 § 21-112 Sexual Assault

40. Plaintiffs incorporate herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, and for their fifth cause of action, against each of the Defendants:
41. Oklahoma Statute tit. 21 § 21-112 states, "The term 'sexual assault' is any type of sexual contact or behavior that occurs without explicit consent of the recipient including, *but not limited to*, forced sexual intercourse, forcible sodomy, child molestation, child sexual abuse, incest, fondling, and all attempts to complete any of the aforementioned acts."
42. Requesting S.W. to lift her shirt and expose her undergarments was an inappropriate and sexual behavior conducted without the consent of S.W.
43. S.W. did not have the legal capacity to consent to the action as she is a minor under the age of 18.
44. The sexual assault has caused Plaintiffs extreme emotional distress and hardship.

WHEREFORE, Plaintiff prays for this Court to grant judgment in her favor and against all Defendants for violation of Oklahoma Statute tit. 21 § 21-112, causing actual damages in a minimum amount in excess of \$25,000.00, plus statutory interest until the date judgment is paid, for punitive and exemplary damages to be determined by the jury at the time of trial; and, for such other and further relief as the Court deems appropriate and just; and

SIXTH CAUSE OF ACTION

Assault

45. Plaintiffs incorporate herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, and for their sixth cause of action, against each of the Defendants:

46. "Assault is generally defined as an intentional act that puts another person in reasonable apprehension of imminent harmful or offensive contact."

Cornell Law School, *Legal Information Institute*, LAW.CORNELL.EDU (Mar. 3, 2023, 9:29 A.M.), <https://www.law.cornell.edu/wex/assault>.

47. At the time S.W. entered the office and was asked to lift her shirt and spin, S.W. had a reasonable belief that the Defendant's actions were an imminent threat of harm or danger.
48. At the time S.W. was asked to lift her shirt and spin, she was immediately apprehensive as she was aware that her naked midsection and undergarments would be on display in front of the SRO, Ms. Johnson, another student, and in front of an uncovered window.
49. S.W. was, in fact, harmed, and suffered extreme emotional distress and hardship due to the actions of the Defendant.

WHEREFORE, Plaintiff prays for this Court to grant judgment in her favor and against all Defendants for assault, causing actual damages in a minimum amount in excess of \$25,000.00, plus statutory interest until the date judgment is paid, for punitive and exemplary damages to be determined by the jury at the time of trial; and, for such other and further relief as the Court deems appropriate and just; and

SEVENTH CAUSE OF ACTION
Fourth Amendment Violation

50. Plaintiffs incorporate herein each and every allegation contained in the foregoing paragraphs of this Petition as if fully set forth herein, and for their seventh cause of action, against each of the Defendants:
51. The Fourth Amendment of the United States Constitution states, "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." U.S. Const. amend. IV, § 2.
52. The Defendants' actions were not reasonable under the circumstances.
53. When the Principal conducted the search of S.W. in the presence of the School Resource Officer, they crossed the line between independent school employee and became an agent of the State. S.W.'s Fourth Amendment rights immediately attached, making this an illegal warrantless search.

54. A nicotine vape is not an enumerated reason to search a student under Edmond Public School Policy; therefore, the Defendants never had a right to search Plaintiff's belongings and person.
55. The Defendants failed to reasonably use the balancing test in determining whether the search was reasonable under the circumstances. The possible emotional distress and harm to S.W. far outweighed any possible harm caused by the Plaintiff possessing a nicotine vape.
56. No reasonable person would conclude that the benefits of conducting an illegal strip search of the minor Plaintiff would outweigh the harm caused by the search, nor find that the search was necessary in light of the circumstances.

WHEREFORE, Plaintiff prays for this Court to grant judgment in her favor and against all Defendants for violation of The Fourth Amendment of the United States Constitution, causing actual damages in a minimum amount in excess of \$25,000.00, plus statutory interest until the date judgment is paid, for punitive and exemplary damages to be determined by the jury at the time of trial; and, for such other and further relief as the Court deems appropriate and just.

WHEREFORE, plaintiffs Kristal Trenkamp and S.W. prays as follows:

1. For compensatory damages as to all defendants;
2. For punitive damages as to the individual defendants;
3. For attorney's fees;
4. For their costs occurred herein;
5. For such and other further relief as the Court determines to be appropriate under the law and circumstances.



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