

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION**

A.D., a minor, by and through his mother,
B.D.;
G.L., a minor, and H.L., a minor, by and
through their mother K.L.; and
N.T.,

CV423-170

Plaintiffs,

v.

EFFINGHAM COUNTY SCHOOL
DISTRICT;
YANCY FORD, in his individual and official
capacity;
TORIAN WHITE, in his individual and official
capacity;
AMIE DICKERSON, in her individual and
official capacity; and
BRIGID NESMITH, in her individual and
official capacity,

Defendants.

COMPLAINT

1. This case seeks to vindicate the rights of Plaintiffs A.D., G.L., H.L., and N.T. (“Plaintiffs”), four Black students who have faced pervasive racial discrimination and a hostile educational environment within Effingham County School District (“ECSD”) schools. Because their complaints to school officials have fallen on deaf ears, they now bring this complaint against Defendants ECSD, Dr. Yancy Ford, Dr. Torian White, Ms Amie Dickerson, and Ms. Brigid Nesmith (“Defendants”) for violations of their rights under the First and Fourteenth Amendments of the United States Constitution pursuant to 42 U.S.C. § 1983, and Title VI of the Civil Rights Act, 42 U.S.C. § 2000d *et seq.*, alleging the following:

INTRODUCTION

2. This civil rights action seeks relief for a longstanding and ongoing environment of racial discrimination that Defendants, through their acts and omissions, have allowed to permeate ECSD.

3. The discriminatory and unconstitutional conditions present at Effingham County High School (“ECHS”), South Effingham High School (“SEHS”), and Effingham College and Career Academy (“ECCA”) derive from policies and practices adopted and allowed by Defendants. The conduct of ECHS’s, SEHS’s, and ECCA’s administrators as described herein are also attributable to the acts and omissions of Defendants.

4. Plaintiffs, who are Black, bring this action to challenge ECSD’s pattern and practice of ignoring acts of racial animosity toward Black students perpetrated by White students and staff, and of sweeping Black students’ complaints under the rug. Defendants’ conduct has gone unchecked for years, and Plaintiffs, who are current high school students or recent graduates, are now stepping up to challenge these hostile, hurtful acts and omissions and call them out for what they are: violations of Plaintiffs’ statutory and constitutional rights.

5. Plaintiffs have been subject to heinous racial attacks, including the rampant use of derogatory language like “n****r,” “porch monkey,” and “monkey.” They have had to share spaces at school with students dressed as Adolf Hitler and have watched classmates mockingly reenact the killing of George Floyd. These attacks and actions—which have been largely ignored by Defendants—have created a hostile learning environment for Plaintiffs in their schools and extracurricular activities.

6. The disparate implementation of ECSD’s dress codes and disciplinary policies further creates a hostile atmosphere. When applying the district-wide dress code,¹ which is promulgated by the Effingham County Board of Education (“the Board”), school officials *permit* the wearing of Confederate flag apparel on days during which students are allowed to wear clothing other than uniforms—all while placing the Confederate flag in prominent areas throughout ECHS—but simultaneously *prohibit* the wearing of “Black Lives Matter” apparel or related thematic messaging on those same occasions.

7. When Plaintiffs posted on social media regarding the racial animosity they have witnessed and experienced at ECSD schools, Defendants sought to remove these posts or discipline Plaintiffs, all while failing to discipline the White students who perpetrated the acts of racial animosity about which Plaintiffs spoke.

8. Plaintiffs thus bring this action to rectify these deep-seated and unconstitutional policies and practices within ECSD in order to provide themselves, and all other students similarly situated, the equal protection they are promised under the Constitution and laws of the United States.

PARTIES

9. Plaintiff A.D. is a rising junior at ECHS, who has attended the school since 2021. He is Black.

10. Plaintiff B.D. is the mother of A.D. B.D. brings this action on behalf of her minor son. She is Black.

¹ See Effingham County Schools, Student & Parent Handbook 2022-2023 12 (2022), https://www.effinghamschools.com/cms/lib/GA01000314/Centricity/Domain/97/2022-2023%20Parent_Student%20Handbook.pdf.

11. Plaintiff G.L. is a rising junior at ECHS, who has attended the school since Fall 2021. She is Black.

12. Plaintiff H.L. is a rising senior who takes the majority of her courses each day at ECCA, where she attends the STEM Academy, and takes the rest of her courses on the ECHS campus. She has attended ECCA and ECHS since Fall 2020. She is Black.

13. Plaintiff K.L. is the mother of G.L. and H.L. K.L. brings this action on behalf of her minor daughters. She is Black.

14. Plaintiff N.T. is a rising sophomore at Savannah State University, who attended SEHS from Fall 2018 until Spring 2021, when he transferred to another high school. He is Black.

15. Defendant ECSD is located in Effingham County, Georgia.

16. Defendant ECSD is a public school system charged with the duty to “establish and maintain public schools” within its geographical limits under the Georgia Constitution. Ga. Const. Art. VIII, § 5, ¶ I.

17. ECSD is governed by the Board, which is charged with the “management and control” of the ECSD school system. Ga. Const. Art. VIII, § 5, ¶ II.

18. Defendant ECSD is a recipient of federal funds.²

19. ECSD is a state actor and is subject to the First and Fourteenth Amendments of the U.S. Constitution.

20. Defendant Yancy Ford (“Dr. Ford”) is the Superintendent of ECSD, a position to which he was appointed by the Board. He is being sued in his individual and official capacity.

² See Nat’l Ctr. for Educ. Stats., https://nces.ed.gov/ccd/districtsearch/district_detail.asp?ID2=1301980 (last visited Mar. 16, 2023).

21. Defendant Torian White was at all times relevant to this complaint the Principal of SEHS. He is being sued in his individual and official capacity.

22. Defendant Amie Dickerson was at all times relevant to this complaint the Principal of ECHS. She is being sued in her individual and official capacity.

23. Defendant Brigid Nesmith became Principal of ECCA in 2020 and remains the principal at the time of the filing of this complaint. She is being sued in her individual and official capacity.

24. All Defendants exercise power by virtue of state law or are clothed in the authority of state law.

JURISDICTION AND VENUE

25. This Court has federal question jurisdiction over this matter pursuant to 28 U.S.C. § 1331, as this case arises under federal law, namely Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.*, and 42 U.S.C. § 1983.

26. The Southern District of Georgia is the proper venue pursuant to 28 U.S.C. § 1391(b)(2), as the Defendants are located in Effingham County, which is within the district and divisional boundaries of the Savannah Division of the Southern District of Georgia, and the events giving rise to this complaint occurred within Effingham County, which is within the district and divisional boundaries of the Savannah Division of the Southern District of Georgia.

FACTUAL BACKGROUND

I. History of Racial Discrimination Within Effingham County Schools

27. ECHS was created in 1956, just two years after the United States Supreme Court declared segregation unconstitutional in the *Brown v. Board of Education* decision.³ In the wake of *Brown*, in an attempt to dissuade Black students from attending the newly founded school, ECSD chose a Confederate Rebel as ECHS's mascot.⁴

28. Effingham County resisted integrating its schools until 1970, sixteen years after *Brown*.⁵ Since the District's reluctant desegregation, ECSD has continued to celebrate and endorse the Confederacy in its schools. Through the 1980s, ECHS had an individual dressed as a Confederate Rebel and waving a Confederate flag on the sidelines of its football games.⁶

29. ECHS still uses the "Rebel" nickname and plays "Dixie"—an "anthem of the Confederacy"⁷—at school events, despite protests from Black students in the 1990s and community backlash in 2015.⁸ To this day, the Confederate flag and related imagery remain a

³ Emily Jones, *Debate Flares Over High School's Rebel Mascot*, Ga. Pub. Broad. (July 17, 2020, 12:48 AM), <https://www.gpb.org/news/2015/09/25/debate-flares-over-high-schools-rebel-mascot>.

⁴ *Id.*

⁵ Mark Lastinger, *Springfield Central High School Historical Marker Unveiled*, Effingham Herald (Apr. 13, 2021, 10:29 AM), <https://www.effinghamherald.net/local/springfield-central-high-school-historical-marker-unveiled/>.

⁶ See Jones, *supra* note 3.

⁷ Bilal Qureshi, *The Anthem Allure of 'Dixie,' An Enduring Confederate Monument*, Nat'l Pub. Radio (Sep. 20, 2018, 3:41 PM), <https://www.npr.org/2018/09/20/649954248/the-anthem-allure-of-dixie-an-enduring-confederate-monument>.

⁸ Patrick Donahue, *Emotions Run High on Request to Change ECHS Nickname*, Effingham Herald (Aug. 18, 2015, 11:18 PM), <https://www.effinghamherald.net/education/emotions-run-high-on-request-to-change-echs-nickname/>.

mainstay on ECHS's campus. This imagery is displayed, for example, on a sign gifted by the 1982 graduating class, in a sports trophy case, and on a painted phrase and caricature commissioned by a principal in the 1990s.⁹

30. As recently as 2015, following pleas for change from the NAACP and other groups, the Board chose: to retain the "Rebels" nickname; to continue to allow the ECHS band to play "Dixie"; and to continue to allow students to fly Confederate flags at sporting events.¹⁰ The ECSD superintendent at that time, Randy Shearouse, stated that the use of "Rebels" was retained "not as a name of hate, but as a name associated with pride in one's school and its traditions."¹¹ NAACP speakers who shared their concerns with the Board were booed by a mostly White crowd.¹²

31. Pervasive disciplinary disparities are also evident at ECSD schools. In the 2015-2016 ECHS school year, Black students at the high school were 2.4 times more likely to be suspended than White students.¹³ As of 2017, the last year for which compiled data is publicly

⁹ Staff Report, *ECHS to Keep Rebels Nickname*, Effingham Herald (Aug. 27, 2015, 11:00 PM), <https://www.effinghamherald.net/education/echs-to-keep-rebels-nickname/>.

¹⁰ See *id.*; G.G. Rigsby, *Effingham County High School Will Keep Nickname 'Rebels,'* Savannah Now (Aug. 25, 2015, 4:57 PM), <https://www.savannahnow.com/story/news/2015/08/25/effingham-county-high-school-will-keep-nickname-rebels/13570795007/>.

¹¹ Bryan Toporek, *Pressure Mounts Against Schools' Confederate Ties*, Educ. Wk. (Sept. 22, 2015), <https://www.edweek.org/leadership/pressure-mounts-against-schools-confederate-ties/2015/09>.

¹² G.G. Rigsby, *NAACP Booed at Ga. School Board Meeting*, Augusta Chron. (Aug. 19, 2015, 7:08 AM), <https://www.augustachronicle.com/story/news/2015/08/19/naacp-booed-ga-school-board-meeting/14357577007/>.

¹³ *Effingham County High School*, ProPublica: Miseducation, <https://projects.propublica.org/miseducation/school/130198000890> (last updated Oct. 2018).

available, despite comprising just 22.5% of the ECHS population, Black students made up 36% of in-school suspensions, 41% of out-of-school suspensions, and 57% of expulsions.¹⁴

32. SEHS, an ECSD high school created in 1996 in response to a growing student body population at ECHS, retains the same racial disparities and tensions that exist at ECHS.¹⁵ As of 2017, despite comprising just 11% of the SEHS population, Black students represented 22% of in-school suspensions, 16% of out-of-school suspensions, and 41% of expulsions.¹⁶

33. Effingham County School District actively resisted desegregating its schools for sixteen years and, in the years since, has generated and sustained an environment that is harmful and hostile to its Black students. ECSD's history and its current landscape set the backdrop for Plaintiffs' allegations.

II. ECSD's Deliberate Indifference Towards Pervasive Racial Discrimination and First Amendment Violations in Effingham County Schools

a. N.T.

1. N.T.'s Background

34. N.T. is a nineteen-year-old rising sophomore at Savannah State University at the time of the filing of this complaint.

35. N.T. is Black.

¹⁴ Department of Education, *Discipline Report*, C.R. Data Collection (2017), <https://ocrdata.ed.gov/profile/9/school/236459/disciplinereport>.

¹⁵ *Overview*, S. Effingham High, <https://www.effinghamschools.com/page/7930> (last modified Aug. 1, 2022).

¹⁶ Department of Education, *Discipline Report*, C.R. Data Collection, <https://ocrdata.ed.gov/profile/9/school/236464/summary> (last accessed April 25, 2023).

36. N.T. previously attended Port Wentworth Elementary School in Chatham County, Georgia, from 2010 to 2013; Sandhill Elementary School in Effingham County, Georgia, from 2013 to 2015; South Effingham Middle School in Effingham County from 2015 to 2018; and SEHS in Effingham County, including classes at ECCA, from 2018 to 2021. He transferred out of ECSD to a different school district for the 2021 to 2022 school year.

37. In high school, N.T. was a good student. He took honors classes and AP Government. He participated in a dual enrollment program to begin earning college credits. He maintained a GPA of approximately 3.0-3.1.

38. N.T.'s extracurricular activities included Future Business Leaders of America and Family Career and Community Leaders of America. He was also captain of the cheerleading team.

39. N.T. felt unsafe and threatened while attending ECSD schools. By eighth and ninth grade, he dreaded going to school because of the mental and emotional toll the exposure to racism and anti-Blackness had on him. He felt out of place and began experiencing depression and anxiety. His mental health declined further leading up to the eleventh grade, when school administrators sought to curtail his social media postings regarding racism and discrimination in the schools, instead of addressing that racism and discrimination. As a result, he ultimately left Effingham County Schools and transferred to the Savannah-Chatham County Public School System for his senior year.

40. N.T. is now in college studying middle grade education, focusing on English and Social Studies. He continues to make good grades, has a strong friend group, and is learning more about the complexities of teaching young students. His life has improved a great deal since he left Effingham County Schools.

41. The following events detrimentally affected N.T.'s experience and wellbeing while enrolled in Effingham County Schools.

2. ECSD's Persistent Failure to Appropriately Respond to Pervasive Usage of Slurs and Anti-Black Language by ECSD Students

42. N.T. first encountered racism in ECSD as a young child. At Sandhill Elementary School, he remembers fellow students making racist statements to him as early as the fifth grade. N.T. remembers hurtful comments hurled at him by White students, like students telling him "your dad must be in jail" because he is Black.

43. In middle school, N.T. regularly encountered White students casually using racial slurs, including "porch monkey" and "n****r." N.T. also heard students using anti-LGBTQ slurs such as "f****t." Slurs were used in the hallway, in the classroom, and at lunch, frequently in earshot of teachers. Despite this, N.T. never saw a teacher or staff reprimand students. To his knowledge, no students were disciplined for using racial slurs.

44. In the 2016-2017 school year, while N.T. was in the seventh grade at South Effingham Middle School, racist attacks against Black students escalated in ECSD. N.T. heard, for instance, about White students surrounding Black students at SEHS while yelling racial slurs at them.

45. In early 2019, during N.T.'s freshman year at SEHS, he observed a White male student, who was known to use racial slurs, call a Black female student "n****r." Words were exchanged and the White student grabbed and choked the Black female student. A fight ensued.

46. In late 2019, during a small group discussion about civil rights during an AP Government class, a White student was grouped with a Black female student and N.T. The White

student used the word “n***a” in the discussion, which disturbed both Black students. The White student, who was on the football team, told them that the entire football team used the word and that as long as it is spoken as “n***a”—ending with an “a” and not an “er”—it was fine to say.

47. In 2019-2020, when N.T. was in tenth grade, he heard White students using racial slurs to address Black students in the hallways between classes.

48. As captain of the cheerleading team, N.T. heard parents of cheer team members, including parents who taught at SEHS, refer to cheers as “ghetto” because they were in the style of cheers performed at Historically Black Colleges and Universities.

49. These comments from students and teachers made N.T. feel isolated and uncomfortable in school.

3. ECSD’s Consistent Dismissal of Racist Incidents and Its Intimidation Tactics Towards N.T.

50. The social media application Snapchat is a widespread form of communication among students in ECSD schools.

51. Snapchat allows users to send private pictures or videos and messages to each other, as well as to publicly share “stories”—that is, images or videos, often with captions written by the poster.

52. Stories remain posted for twenty-four hours, while pictures or messages sent to other users in individual chats are erased immediately upon viewing.

53. A common manner of commenting on someone else’s picture or message is to screenshot another user’s picture or message and share it on one’s own Snapchat story.

54. In the 2019-2020 school year, racist Snapchat stories began to circulate among SEHS students. Snapchat stories posted by three White students used slurs such as “n****r,” derogatory epithets like “porch monkey,” and other demeaning and racist language.

55. Other students screenshotted these racist stories and re-posted them, allowing the stories to spread throughout SEHS's student population.

56. In response, N.T. spoke out on Snapchat about the situation by posting a story chastising the original posters.

57. In February 2020, while N.T. was cheer captain, he was sent a video recording of a Snapchat text conversation in which multiple White male students at SEHS were making inflammatory racist and derogatory remarks. *See* Exhibit 1. The word "n****r" was used repeatedly. *Id.* "F*kin N****rs ruining merica" was one particularly terrifying and upsetting declaration. *Id.*

58. The names or screennames of the students involved were visible in the conversation, and at least some of the students were using their real names.

59. N.T. posted the recording of the text messages on an Instagram account which was not connected to his real name. He posted the recording with the caption "I hate South" in reference to the racism at SEHS. Another student took a screenshot of N.T.'s post and sent it to his cheer coach, Allison Gill, and school athletic director, Jeff Faith.

60. Soon after, N.T. was called into a meeting at school with Ms. Gill and Mr. Faith. N.T.'s parents were not notified of the meeting and were not present. During the meeting, Mr. Faith reminded N.T. that as an athlete, he represented the school—implying to N.T. that he had done something wrong by posting the offending text messages. Mr. Faith blamed Black students for the White students' language, asserting that White students used racial epithets because Black students used racial language when talking to each other. He told N.T. to talk to other Black students regarding their usage of racial epithets because Black students were the reason why White students also used the language. Ms. Gill also stated that there was no way to prove which students

were involved in the racist Snapchat conversation, despite several students' real names being linked to the conversation, and despite the fact that N.T. was disciplined, even though his real name was not linked to his post.

61. When N.T.'s mother found out that N.T. had been spoken to alone regarding his social media activity, she set up a meeting with Dr. Torian White, the principal of SEHS.

62. At the meeting that followed with Dr. White, N.T., and N.T.'s mother, Dr. White stated that he was aware of the issues at the school but could not do anything about them because if he did, the school board would fire him. When N.T. expressed the need for an affinity group for Black students, Dr. White stated that he could not support such a group as the Board would not want to single people out.

63. Unsure of whether he was in trouble, N.T. went home after the meeting and felt compelled to email an apology to Dr. White. Dr. White replied that N.T. should provide a handwritten apology because his post could be perceived as a threat to SEHS students. The following day, N.T. went to the athletic director's office, wrote an apology, and delivered it to Dr. White.

64. Despite school officials addressing N.T.'s social media activity, to N.T.'s knowledge, the White students posting the racist messages on their Snapchat accounts were not reprimanded or disciplined.

65. In the fall of 2020, when N.T. was in his junior year, another racist Snapchat story spread through the student population. In this conversation, two White male SEHS students used racial slurs, including "n****r" and "porch monkey."

66. Even though N.T. was afraid because of the reprimands he had received the previous school year, he forwarded the post to Dr. White.

67. Despite the extent to which this story pervaded the school, to N.T.'s knowledge, no staff or administrators addressed the issue with the student population or the students involved.

68. In the fall of 2020, a group of students at the STEM Academy mocked and reenacted the murder of George Floyd, which had occurred earlier that year, in the back of a classroom during class time.¹⁷ Video of the reenactment was shared widely throughout the school district and beyond, including with news organizations.¹⁸

69. Despite the heinous nature of the George Floyd murder reenactment video, to N.T.'s knowledge, school officials did nothing to address this situation with students and did not discipline the students involved, despite being made aware of the incident (see ¶ 150, *infra*).

70. In September or October of 2020, N.T. told the SEHS principal about instances of racist graffiti in the bathroom. The graffiti remained there, and the incident went unaddressed. Graffitied slurs are common on the bathroom walls at SEHS.

71. In or around November 2020, an unofficial group of Black SEHS students, including N.T., convened with the intent of creating a safe space for Black students. They called themselves the "Black Student Union."

72. The group decided to wear black T-shirts to a football game as a sign of unity. N.T. attended that game but left early. After the game, Dr. Ford, whom N.T. had not encountered at the game, called N.T.'s mother and said that he had been looking for N.T. at the game. Dr. Ford

¹⁷ See WSAV News 3, *Students and Parents of Color in Effingham County Demand Action on Racial Incidents*, YouTube (Oct. 2, 2020), <https://www.youtube.com/watch?v=xek8VjRwC-Q> (showing the incident in question).

¹⁸ Edward Moody, *Students and Parents of Color in Effingham County Demand Action on Racial Incidents*, WSAV (Oct. 2, 2020), <https://www.wsav.com/news/local-news/students-and-parents-of-color-in-effingham-county-demand-action-on-racial-incidents/>.

acknowledged that N.T. was a good student, but noted that N.T. was “very vocal about issues in the school district.” Dr. Ford then scheduled a meeting with N.T. and his parents.

73. N.T. and his parents met with Dr. Ford, ECSD Assistant Superintendent Tim Hood, and ECSD Director of Human Resources Susan Hartzog.

74. During the meeting, Dr. Ford pressed N.T., purportedly for suggestions on improvements in the school district. N.T. reiterated the suggestion he had made previously to Dr. White, that the creation of affinity organizations for minority students would be helpful. Dr. Ford expressed reluctance, asserting a fear that such an affinity group would “segregate” the school.

75. During the meeting, Dr. Ford produced a printed screenshot of N.T.’s Snapchat post from months earlier and asked that N.T. inform him of incidents rather than publicizing them on social media. Dr. Ford implied that the school was keeping track of N.T.’s social media activity and would take disciplinary action against N.T. if necessary. No ECSD or SEHS administrator in the meeting addressed N.T.’s concerns about the racist Snapchat messages; they only focused on N.T.’s re-posting of the messages. The meeting left N.T. feeling intimidated and apprehensive about speaking out.

76. Due to the racist environment at SEHS and in other ECSD schools before that, N.T. transferred to a different school district for his senior year. N.T. found the environment there dramatically different, and without the pervasive racism he had faced at SEHS. N.T. instantly felt welcome and comfortable attending his new high school. He graduated the following year and went on to college.

b. A.D.

1. A.D.'s Background

77. A.D., at the time of the filing of this complaint, is a sixteen-year-old rising junior at ECHS.

78. A.D. is Black.

79. A.D. transferred to ECSD and ECHS in January 2022, halfway through his freshman year.

80. A.D. previously attended Jacob G. Smith Elementary School in Chatham County, Georgia; Rincon Elementary School in Effingham County; and Ebenezer Middle School in Effingham County.

81. A.D. is a high-achieving student, taking difficult classes. A.D.'s current course load includes a mixture of AP and honors classes.

82. A.D. has maintained almost straight As and has an approximate GPA of 3.8 or 3.9.

83. In addition, A.D. plays baseball and football and participates in other extracurricular activities. A.D.'s AP Government teacher recommended him for the Student Lighthouse Team, a student-run organization at the school that promotes leadership skills and plans activities for the student body.

84. In recognition of his accomplishments, A.D. has been invited to join the Beta Club and the Spanish National Honor Society.

85. The hostile school environment and racial discrimination have taken a toll on A.D. It is difficult for him to focus. He is distracted from his schoolwork. For the first time since elementary school, A.D. recently received two Bs as class grades. A.D. is distressed by the hostility

and environment in ECSD and has become socially withdrawn from his family and individuals outside of his core friend group.

2. ECSD's Failure to React to Consistent Usage of Slurs and Anti-Black Language by ECSD Students

86. Shortly before A.D. transferred into ECSD, he heard that a noose had been found in ECHS's football locker room. This incident, in combination with his knowledge of ECHS's "Rebels" nickname, made A.D. dread attending ECHS.

87. A.D. encountered racism at ECHS almost immediately after transferring to the school in the middle of ninth grade.

88. In his time at ECHS, he has heard White students say "n****r" in school nearly every day, often as they walk in the hallways between classes.

89. A.D. sees teachers standing in the hallways between classes and believes that teachers hear and see students use racial slurs on a near-daily basis. Upon information and belief, these students have largely gone undisciplined and uncorrected for their racist language.

90. A.D. frequently sees the ECHS bathrooms littered with anti-Black slurs and language, such as "f*ck n****rs." *See* Exhibit 2. Whenever the graffiti is cleaned, it quickly reappears.

91. To A.D.'s knowledge, the school administration has never investigated these acts of vandalism and the use of slurs, nor have they taken any action to address the student body or condemn these acts.

92. While Confederate flags are pervasive on school campus, A.D. knows of a fellow Black student who was disciplined under the ECHS dress code for wearing a Black Lives Matter shirt to school.

93. During A.D.'s freshman year, in February 2022, two teachers added content recognizing Black history to the regular morning announcements in celebration of Black History Month.

94. These announcements included quotations from historical civil rights leaders and their speeches.

95. Several White students responded to the announcements by posting stories on Snapchat, making statements to the effect of "we don't want to hear this," and "can you stop reading this/talking about it," along with other comments disparaging the announcements.

96. Other students reposted the original students' commentary and the announcements and backlash became a popular topic of conversation on Snapchat.

97. A.D. was shocked by this hostility towards Black history. He felt uncomfortable in school and isolated from his peers; he did not know who around him might harbor discriminatory feelings toward him for being Black.

98. When A.D. started tenth grade in 2022, he continued to hear "n****r" around the school within hearing distance of teachers and administrators. He never saw or heard of anyone disciplined or corrected for using the slur.

99. In October 2022, A.D. was told that a label, apparently printed on a label-maker, stating "I hate n****rs" was posted in the baseball locker room at ECHS. *See* Exhibit 3. A.D. did not personally see the label, but word spread around the school and he soon heard about the incident.

100. A.D. is one of few Black students on the school baseball team. It seemed clear to A.D. that the statement was directed towards him and the other Black baseball players.

101. The slur in the baseball locker room shocked and rattled A.D., making him uncomfortable around and suspicious of his teammates. He was angry that the school made no effort to immediately inform the entire team or their parents of the incident, and that he had to hear about it secondhand.

102. ECHS's baseball coach, Coach Shane Ramsey, met with the baseball team and stated that he did not approve of the locker-room label.

103. Coach Ramsey also informed the school principal and ECSD Superintendent, Dr. Ford, of the incident and tried to remove the student perpetrators, who had apparently been identified, from the team. On information and belief, Coach Ramsey was prevented from doing so by school officials acting at the direction of ECSD.

104. A.D. worried about the racial motivations behind the label message and bathroom graffiti. His discomfort was exacerbated by ECSD's lack of action or meaningful response to the hateful messaging directed towards Black student athletes.

105. A.D. has regularly seen Confederate flags displayed on the ECHS campus, including on student vehicles and on school memorabilia. For example, there is a plaque displayed in a trophy case in the school that has an engraving of the Confederate flag on it.

106. Despite being involved in extracurricular groups and activities, A.D. feels isolated at ECHS as a result of the discrimination and related environment.

107. A.D. has experienced deep distress and discomfort due to the incidents of racial discrimination and animus he has witnessed and experienced as a student at ECHS.

108. The exposure to racism and discrimination at ECHS has caused A.D. significant mental and emotional fatigue. In addition, A.D.'s grades have fallen for the first time since elementary school.

c. G.L.

1. G.L.'s Background

109. G.L., at the time of the filing of this complaint, is a fifteen-year-old rising junior at ECHS. She has been attending ECHS since the beginning of ninth grade.

110. G.L. is Black.

111. G.L. previously attended Port Wentworth Elementary School, in Chatham County, Georgia; Rice Creek School, in Chatham County; and Effingham County Middle School, in Effingham County.

112. G.L. is a talented basketball player and has been approached for recruitment by several colleges and universities.

113. G.L. dreams of playing professional basketball or becoming an athletic trainer.

114. The environment at ECHS has made G.L. feel unimportant and like less than a person.

115. The following incidents have detrimentally affected G.L., her academic performance, and her educational experience while at ECHS.

2. ECSD's Failure to React to Consistent Usage of Slurs and Anti-Black Language by ECSD Students

116. G.L. has experienced bullying because of her race from the time she was in middle school.

117. When G.L. attended Effingham County Middle School from sixth grade through the first semester of eighth grade, White peers would call G.L. "n****r." Although G.L. reported this to her teachers, they did nothing.

118. The inaction from G.L.'s teachers had negative effects on her mental and emotional state.

119. G.L. was homeschooled for the final semester of eighth grade, and then started at ECHS with the hope that things would be better. She unfortunately was wrong.

120. When G.L. first started at ECHS in August 2021, she quickly noticed how common Confederate flags were. She saw many of them in many places including on apparel and around the school. She quickly realized the flags were emblematic of an environment in which White and Black students are treated differently.

121. G.L. has noticed that, generally, Black students are treated more harshly than White ones. She sees, for example, teachers yelling at Black male students, but not at White male students acting similarly.

122. In class, teachers would tell Black female students who were talking to “keep it down”; White female students engaging in the same behavior would be ignored and allowed to continue.

123. White female students would be allowed to wear colorful hair styles, while Black female students would be disciplined for such action.

124. In the first week of school in Fall 2022, G.L. herself was disciplined for having red braids at the nape of her neck, under her black braids. The dress code permits natural hair colors, but Mr. Kessler, an administrator at ECHS at the time, told G.L. that “you know that’s not a natural color for *your kind*.” G.L. was removed from her classes and sent to in-school suspension for the remainder of the day.

125. Due to the effort and expertise required to install braids, G.L. was unable to remove her braids that weekend. In the second week of school, G.L. was again disciplined for having the same braids in her hair, despite her efforts to hide the red hair. When she was sent to the discipline office, Principal Dickerson challenged her to find a person with G.L.’s skin tone who had natural

red hair. G.L. was again given in-school suspension for the remainder of the school day and missed a second day of instruction.

126. G.L. continued to observe White female students wearing colorful hair styles, including hair dyed purple, green, and other colors that could be considered “unnatural,” attend class without receiving in-school suspension or other discipline.

127. G.L. noticed other instances of the dress code being disparately enforced based on race. She observed that when White female students’ clothing violated the dress code they were largely ignored, while similar violations of the dress code by Black female students were corrected much more frequently.

128. White students at ECHS routinely call Black students “n****r” or refer to them as “monkeys” during arguments with Black students. G.L. brought this to the attention of Ms. Osment, her science teacher at the time, who said she would do something about it. On information and belief, no steps have been taken to address this issue.

129. In August 2021, G.L. heard a White student use “n****r” in her English and Language Arts class. The teacher, Ms. Collins, did not reprimand the student. There was no corrective action taken.

130. On another occasion, during the same class, G.L. described a picture her friend was drawing as “retarded,” Ms. Collins admonished her. Though an admonishment in response would have been appropriate in isolation, the way Ms. Collins did it was decidedly not: She asked G.L. if, by comparison, it would be wrong if Ms. Collins called G.L. “a n****r,” saying the full word out loud.

131. A White student interjected and told G.L. to shut up, using profanity directed towards G.L. An argument ensued, and G.L. was suspended for approximately three days. The other student was not disciplined.

132. After G.L. returned to school, almost a week later, G.L. was called to the counselor's office for using the word "retarded." The counselor told her that "just because someone says the n-word doesn't mean it's okay for you to say 'retarded.'" The counselor told G.L. that she was personally offended that G.L. used the "r-word." The counselor chastised G.L. and told her to watch what she said. The counselor did not acknowledge that using "n****r" was harmful and hurtful, nor did she condemn Ms. Collins' usage of the slur.

133. G.L.'s mother reached out to the school counselor to ask her about the counselor's conversation with G.L. The counselor again failed to acknowledge that it was unacceptable for a teacher to use the word "n****r" with a student. G.L.'s mother then spoke to Principal Dickerson, who stated she would speak to the teacher. On information and belief, no disciplinary action was taken against the teacher for using "n****r" in a conversation with a student.

134. In December 2021 or January 2022, G.L. witnessed a group of White male students calling Black male students "monkeys."

135. In February 2022, G.L. witnessed White students' responses to the Black History Month morning announcements. She saw White students recording the announcements and posting them on social media, with statements like "I don't want to listen to this" and "they don't deserve it." Around this time, G.L. also saw White students calling Black students "monkeys," and complaining that Black History Month constituted special treatment.

136. G.L. never saw a teacher or school administrator address this behavior. Instead, ECHS did not do Black History Month announcements the following year, in February 2023, until Black students inquired about the lack of announcements towards the end of the month.

137. G.L. specifically noticed Confederate flags displayed on plaques in a school trophy case. She continued to observe the flags in the trophy case as recently as the beginning of 2023.

138. The problems at ECHS continued as G.L. went into her sophomore year in August 2022.

139. In one of G.L.'s classes, taught by Ms. Osment, G.L. observed an incident where a White male student got into an argument with a Black female student and called her a "n****r." The Black student told Ms. Osment what he had said, but Ms. Osment refused to act because, as she explained, she did not personally hear the student say the slur. The White male student was emotional and was allowed to leave the classroom to calm down before returning but, upon information and belief, did not receive any discipline.

140. While attending ECHS, G.L. has observed Black male students at ECHS being disciplined at a higher rate than White male students. For example, in G.L.'s experience, Black male students are more likely to receive school discipline or be sent to an alternative school than White male students who behave in similar ways.¹⁹

141. G.L. frequently sees anti-Black slurs such as "n****r" or "monkey" written on the ECHS bathroom stalls. To her knowledge and belief, no steps have been taken by the school to discipline students for this vandalism, nor has the administration spoken to the student body to address or condemn these acts.

¹⁹ G.L.'s observation is borne out by data. *See supra* ¶¶ 30–31.

142. Because of the pervasive racism and discrimination and lack of administrative efforts to address these issues, G.L. feels uncomfortable at school and feels she has to hide her true self. As a result, G.L. feels exhausted, drained, and angry by the time she gets home from school. Sometimes these feelings make G.L. dread going to school.

d. H.L.

1. H.L.'s Background

143. H.L., at the time of the filing of this lawsuit, is a sixteen-year-old rising senior at ECCA's STEM Academy, taking advanced classes at ECCA. ECHS is her base high school, where she plays sports and participates in extracurricular activities.

144. H.L. is Black.

145. H.L. previously attended Effingham County Middle School for seventh and eighth grade.

146. H.L. is a good student. She takes honors and Advanced Placement classes at ECCA. She makes As and Bs and maintains a 3.4 GPA.

147. In addition, H.L. participates in cheerleading and works after school.

148. H.L. dreams of becoming a pediatrician when she grows up.

149. As a result of the racism and discrimination present at school, H.L. struggles with stress and anxiety. She has anxiety attacks one to two times a month.

2. ECSD's Failure to React to Slurs, Anti-Black Language, and Racist Behavior by ECSD Students

150. H.L. began her freshman year in August 2020. That September, while in class at ECCA's campus, H.L. witnessed the group of students mockingly reenacting the brutal murder of George Floyd (see ¶ 68, *supra*), which had taken place in May of that year. One White male student used an orange rope to tie another White male student's arms, using the rope as handcuffs. A third

White male student put his knee on the tied-up student's neck and told him to "stop resisting." Many students laughed at the incident or stood and watched. Some students recorded the incident, including H.L., who recorded it to have evidence that it occurred. The teacher was present, at the front of the classroom. It is not clear whether the teacher could see what was happening in the classroom.

151. H.L. was the only Black student in the class. She became distraught at what she saw and began crying. H.L. needed to leave the classroom and tried to explain why to the teacher. The teacher did not appear to understand but instructed H.L. to go to the counselor.

152. H.L. told the counselor what happened. The counselor called in a school administrator. H.L. showed the school counselor and administrator her video recording of the incident. They both appeared to be shocked.

153. H.L. posted her recorded video of the incident on Instagram.

154. Recordings and news of the incident spread throughout ECSD, with both students and administrators learning of the incident and seeing the videos as the school day progressed.

155. After finishing her STEM Academy classes, H.L. returned to ECHS with her ECCA classmates at the end of the school day. H.L. was in shock and distraught over what she had seen. Students in her Instructional Focus class continued to discuss and make fun of the incident that day and the murder of George Floyd. The teacher, Ms. Richards, ignored what was happening.

156. H.L. left the classroom. An administrator, Mr. Hayes, approached H.L. and took her to an office. Mr. Hayes, Principal Dickerson, and one or two other school officials spoke with H.L. alone. Principal Dickerson asked H.L. to whom she had sent the video. Principal Dickerson instructed H.L. to delete the video from her phone and told her not to send it to anyone else.

157. H.L. deleted the video but was later able to recover it from her phone's "Recently Deleted" folder.

158. The administrators told H.L. that they did not want her back in class because they did not want her to cause any more issues or drama, and so they escorted her to her bus.

159. Principal Dickerson called H.L.'s mother and told her that they were escorting H.L. to her bus for H.L.'s protection.

160. Instead of acknowledging the heinousness of the incident or telling her what they planned to do about it, they instead tried to ignore the incident and reiterated that she should not tell anybody about the video.

161. Despite the fact that White students had also recorded the incident, and at least one White student had posted a recording on her social media, as far as H.L. knew, only H.L. was pulled aside and made to delete her recording.

162. It seemed to H.L. like the school was trying to keep the incident a secret, which made her feel even more isolated.

163. The students involved in the incident were removed from school for a period of time, but they returned to the STEM Academy the following year. The students involved in the incident were aware that H.L. had reported it. They blamed H.L. for reporting the incident and for being expelled. The students involved encouraged other White students to approach H.L. in the hallway and tell her how much the students involved hated her and that she had ruined their lives.

164. Over the course of her sophomore year, H.L. noticed numerous inconsistencies in the enforcement of the school's dress code.

165. When H.L. wore a Black Lives Matter COVID face mask, Ms. Renfro, a teacher at ECCA, instructed her to take it off or face discipline by the administration.

166. However, White students were permitted to wear Donald Trump attire, or clothing bearing the “Don’t Tread On Me” insignia, an increasingly popular far-right symbol.²⁰

167. Similarly, a Black student who H.L. knows was denied entry to a home football game in Fall 2021 when she wore a Black Lives Matter shirt. A White student wearing a Trump shirt was permitted entry to the same game.

168. During Homecoming Week, during or around October 2022, students were provided themes according to which they could dress up each day.

169. On Villain v. Hero Day, one White male student dressed up as Adolf Hitler. This student wore a swastika on a red armband, wore a fake mustache, and did the “Heil Hitler” salute by raising his right arm throughout the day. He was immediately recognizable as Hitler.

170. H.L. personally witnessed this student and his costume, as well as seeing pictures of him going around the school on Snapchat. The student wearing the Adolf Hitler costume became the subject of conversation throughout the day, distracting students from classes.

171. When asked why he was wearing the Hitler costume, the student explained he was given prior permission by the administration, allegedly by Dr. Nesmith, ECCA principal, and Ms. Shelly Hobbs, a teacher, to wear the costume.

172. At least one teacher, Ms. Habersham, brought the costume to the school administration’s attention. Dr. Nesmith explained that it was okay because he, Hitler, truly was a villain. The administration ultimately ended dress-up days due to the controversy over the incident.

²⁰ See, e.g., Rob Walker, “*The Shifting Symbolism of the Gadsden Flag*,” *New Yorker* (Oct. 2, 2016), <https://www.newyorker.com/news/news-desk/the-shifting-symbolism-of-the-gadsden-flag> (“[T]he Gadsden flag has become a favorite among Tea Party enthusiasts [and] Second Amendment zealots Along the way, it [has] picked up other connotations: strident anti-government sentiment, often directed with particular vehemence at the first African-American President.”).

173. Upon information and belief, no discipline was ever handed down either to the student who wore the costume or to the authorities who approved of the costume.

174. Later that fall, H.L. heard a White male student use “n****r” during the school day. When asked about this conduct, he explained that a biracial student had given him a “pass” to say “n****r” with impunity. Upon information and belief, this practice is commonplace throughout ECSD.

175. Even when slurs are said in the hallway or classroom within presumable earshot of a teacher or administrator, students are not disciplined for saying “n****r” on school grounds.

176. On May 18, 2023, H.L. arrived at STEM Academy and discovered a paper, hand-drawn Nazi flag affixed to her school project. *See* Exhibit 4. The project clearly stated H.L.’s name and was accessible by other students.

177. H.L. was working on the project with another Black student. The teacher, Dr. Ziegler, interrogated the other student and asked her numerous questions about H.L. being left alone with the project, insinuating that H.L. had placed the flag there herself.

178. H.L. reported the incident to the administration and filed a police report.

179. Dr. Nesmith called H.L.’s mother and told her that they had interviewed students who had been seen entering and leaving the classroom on security cameras. They had determined a likely perpetrator, but he was not at school to be interviewed.

STATUTORY TOLLING OF THE STATUTE OF LIMITATIONS

180. Because neither Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000(d), nor 42 U.S.C. § 1983 contain a statute of limitations, courts apply the statute of limitations for personal injury actions in the state where the incident occurred. *Wallace v. Kato*, 549 U.S. 384, 386 (2007).

181. The statute of limitations for Title VI and § 1983 claims in Georgia is two years. *See* O.C.G.A. § 9-3-33; *Lovett v. Ray*, 327 F.3d 1181, 1182 (11th Cir. 2003).

182. However, “[m]inors . . . who are such when the cause of action accrues,” are considered “disabled” under O.C.G.A. § 9-3-90(a) and thus are “entitled to the same time after their disability is removed to bring an action as is prescribed for other persons.” O.C.G.A. § 9-3-90(a).

183. “Application of a state’s minority tolling provision [for a § 1983 claim] appears to be a widely accepted practice.” *Draper v. Atlanta Pub. Sch. Dist.*, No. 1:07-CV-0224-MHS, 2008 WL 11381574, at *15 (N.D. Ga. Mar. 31, 2008). “Georgia’s minority tolling provision is not contrary to the underlying policies of . . . Section 1983 [or Title VI of the Civil Rights Act of 1964].” *Id.*

184. Thus, the two-year statute of limitations for Plaintiffs’ Title VI claims and their 42 U.S.C. § 1983 claims begins to run for each Plaintiff when he or she turns eighteen and does not expire until two years after that Plaintiff’s eighteenth birthday.

185. Here, each Plaintiff’s causes of action accrued while he or she was a minor. Plaintiffs A.D., G.L., and H.L. are under the age of eighteen and are still minors. Plaintiff N.T. is nineteen years old.

186. Because each Plaintiff is either a minor or within two years of his or her eighteenth birthday, the statute of limitations does not bar bringing these claims.

COUNT ONE
(as to Defendant ECSD)
Racial Discrimination
in Violation of Title VI of the Civil Rights Act, 42 U.S.C. § 2000D

187. Plaintiffs re-allege and incorporate Paragraphs 1-186 by reference as if fully set forth herein.

188. Defendant ECSD and Defendant receives federal funding and is thus subject to Title VI of the Civil Rights Act, 42 U.S.C. § 2000d.

189. Defendants Ford, White, Dickerson, and Nesmith, along with other named and unnamed school officials, knew of the incidents of racial discrimination within ECSD.

190. While attending ECSD schools, Plaintiffs suffered severe, pervasive, and offensive discrimination and/or harassment at the hands of their fellow students.

191. Despite their actual knowledge, Defendants failed to address and remedy the incidents and the detrimental impact they had on Plaintiffs.

192. The harms Plaintiffs suffered occurred because of Defendants' policies, customs, or usage.

193. Defendants acted with deliberate indifference to the impact these incidents had on Plaintiffs by failing to meaningfully address these incidents or effectively stop them from re-occurring.

194. Defendants' acts and omissions effectively barred Plaintiffs from accessing the same educational opportunities and benefits as their White classmates, including but not limited to a safe and supportive school environment and equal and unfettered access to participate in certain athletic and extracurricular activities.

195. As such, Defendants' acts violated Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d.

COUNT TWO
(as to Defendants Yancy Ford, Amie Dickerson, Brigid Nesmith, and Torian White)
Denial of Equal Protection
in Violation of the Fourteenth Amendment of the U.S. Constitution
and 42 U.S.C. § 1983

196. Plaintiffs re-allege and incorporate Paragraphs 1-186 as if fully set forth herein.

197. Defendants Ford and White were made aware of, either through actual or constructive notice, repeated and serious incidents of racial discrimination within ECSD and their harm to Plaintiffs throughout their time in the district.

198. Despite this notice, Defendants were deliberately indifferent to repeated incidents of racial discrimination by ignoring these incidents and refusing to take corrective action.

199. The harms Plaintiffs suffered occurred because of Defendants' policies, customs, or usage.

200. Defendants' conduct thus violated Plaintiffs' rights to equal protection under the Fourteenth Amendment of the U.S. Constitution's Equal Protection Clause.²¹

COUNT THREE
(as to all Defendants)
Infringement on Free Speech
in Violation of the First Amendment of the U.S. Constitution
and 42 U.S.C. § 1983

201. Plaintiffs re-allege and incorporate Paragraphs 1-186 by reference as if fully set forth herein.

²¹ See, e.g., *Hill v. Cundiff*, 797 F.3d 948, 979 (11th Cir. 2015) (holding that “doing nothing to reform” racial discrimination amounts to a constitutional violation).

202. ECSD's dress code, as originally adopted by ECSD and as it has been implemented by Defendants, is enforced discriminatorily based on the speakers' viewpoint, in violation of the First Amendment of the United States Constitution.²²

203. ECSD's dress code, as originally adopted by ECSD and as it has been implemented by Defendants, is enforced discriminatorily against Black students, in violation of the First Amendment of the United States Constitution.

204. The harms Plaintiffs suffered occurred because of Defendants' policies, customs or us-age.

ECSD polices the social media use of its Black students in violation of the First Amendment of the United States Constitution.

PRAYER FOR RELIEF

Plaintiffs request a trial by jury on all claims.

WHEREFORE, Plaintiffs request that this Court enter the following relief:

1. Find and declare that Defendants' conduct, as described herein and taken against Plaintiffs, constitutes race discrimination in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, *et seq.*;
2. Find and declare that Defendants' conduct as described herein and taken against Plaintiffs violated Plaintiffs' right to Equal Protection under the Fourteenth Amendment of the U.S. Constitution;

²² See, e.g., *Rosenberger v. Rector & Visitors of University of Virginia*, 515 U.S. 819, 828 (1995) (holding that "government regulation may not favor one speaker over another.").

3. Find and declare that Defendants' conduct, as described herein and taken against Plaintiffs, violated Plaintiffs' right to Free Speech under the First Amendment of the U.S. Constitution;
4. Find and declare that the dress code as described herein, as applied, violates Plaintiffs' right to Free Speech under the First Amendment of the U.S. Constitution;
5. Find and declare that the dress code as described herein, as applied, violates Plaintiffs' right to Equal Protection under the Fourteenth Amendment of the U.S. Constitution;
6. Find and declare that Defendants have violated Plaintiffs' First Amendment right to free speech by policing their social media activity;
7. Issue a permanent injunction requiring Defendants to meaningfully respond to the racist acts and environment within ECSD;
8. Award damages as deemed appropriate, in an amount to be determined at trial;
9. Award punitive damages as deemed appropriate, in an amount to be determined at trial;
10. Award all costs and attorneys' fees incurred in prosecuting this action;

Grant any other relief to which Plaintiffs may be entitled as this Court deems appropriate.

Respectfully submitted this 23rd day of June, 2023

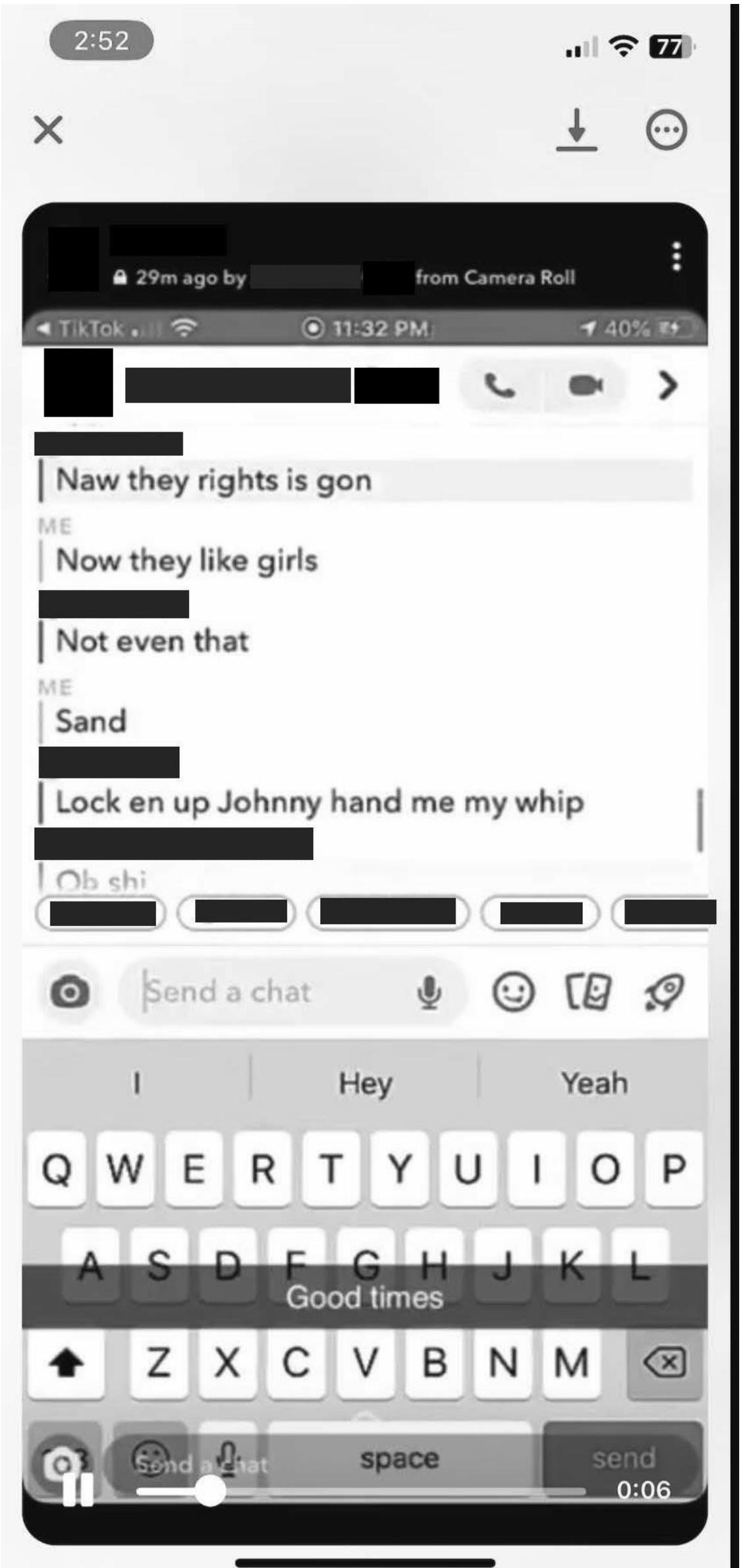
/s/ Harold D. Melton
Harold D. Melton
Georgia Bar No. 501570
Frederick J. King
Georgia Bar No. 110969
Serena Premjee
California Bar No. 313322
Georgia Bar No. 163189
Pro Hac Vice Forthcoming
TROUTMAN PEPPER HAMILTON SANDERS LLP
600 Peachtree Street NE

Suite 3000
Atlanta, GA 30308-2216
Telephone: 404.885.3000
Facsimile: 404.885.3900
Harold.Melton@troutman.com
Frederick.King@troutman.com
Serena.Premjee@troutman.com

/s/ Cory Isaacson
Cory Isaacson
Georgia Bar No. 983797
Pro Hac Vice Forthcoming
Nneka Ewulonu
Georgia Bar No. 373718
Andres Lopez-Delgado
Georgia Bar No. 552876
**AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF GEORGIA**
P.O. Box 570738
Atlanta, GA 30357
Telephone: 404.594.2723
Facsimile: 770.303.0060
CIsaacson@acluga.org
Newulonu@acluga.org
ADelgado@acluga.org

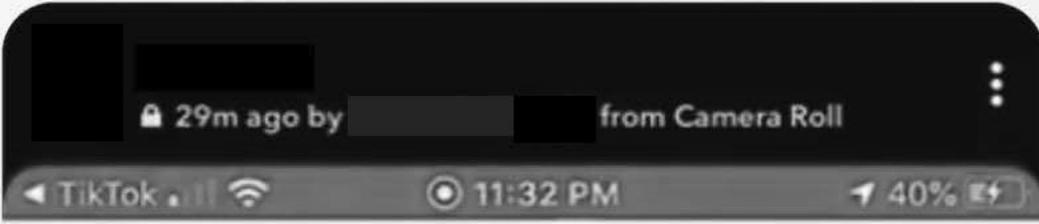
Counsel for Plaintiffs

Exhibit 1



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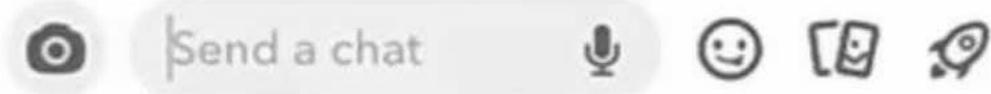
Cut their toes off everytime they run away

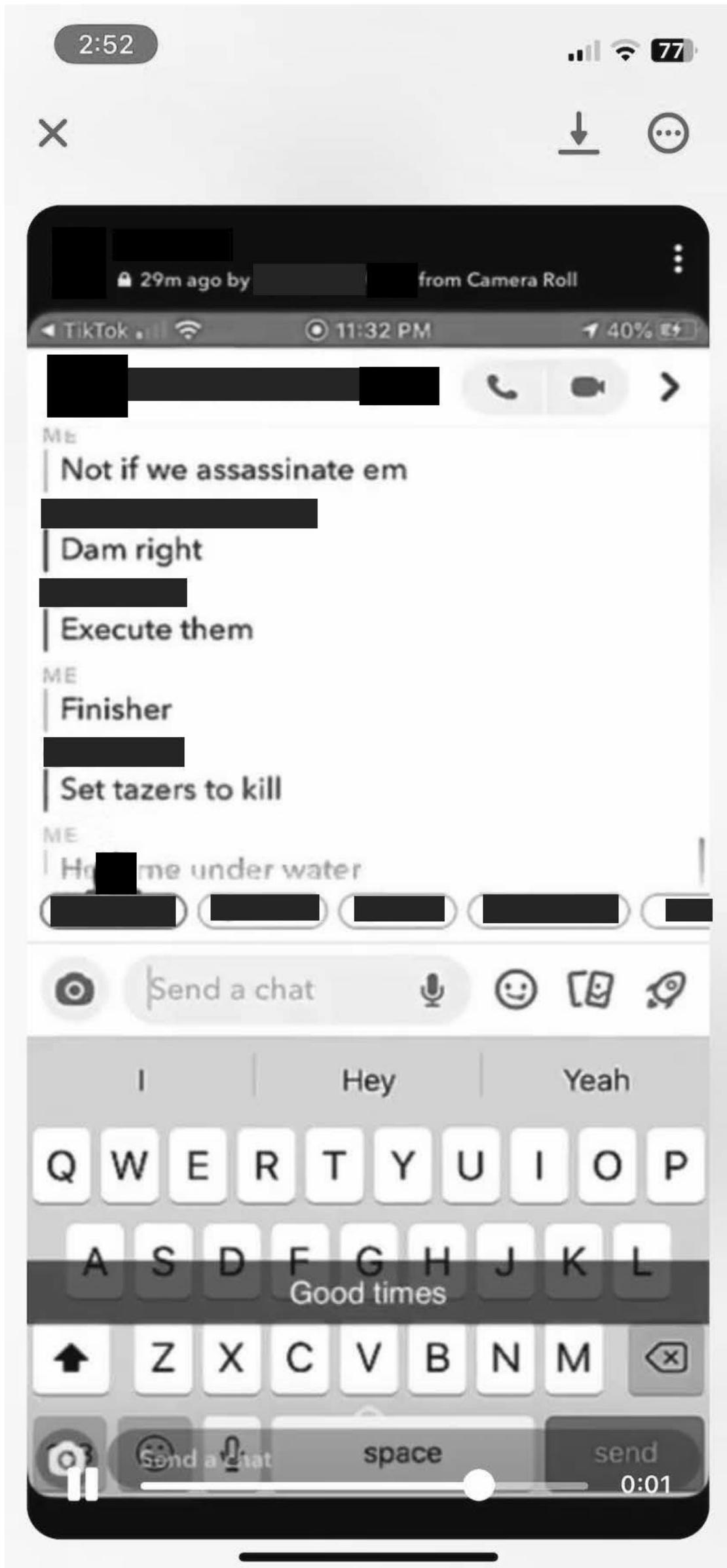
We gon teach em bout the Americas

ME



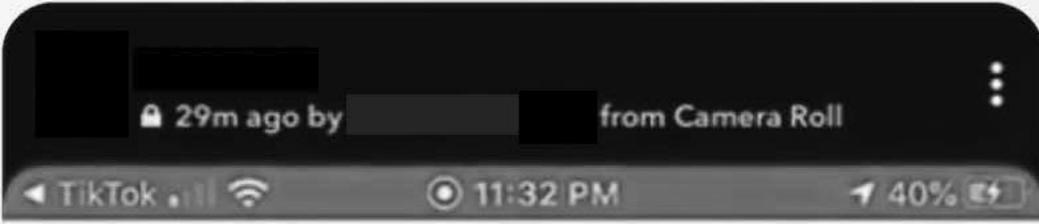
Fukin Niggers ruining merica





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Set tazers to kill

ME
Hold me under water

Wait u

ME
No the nigger

Oh I was bout to say u a nigger

YOU SCREEN RECORDED CHAT 2 TIMES

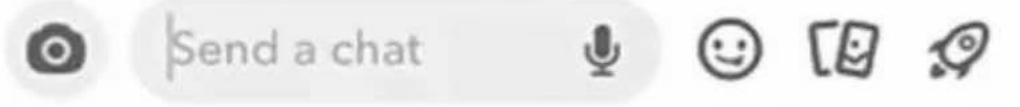


Exhibit 2



Exhibit 3



Exhibit 4

