

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

C.S., by her next friend,)	
ADAM STROUB,)	
)	
Plaintiff,)	CIVIL ACTION FILE NO.
)	
v.)	DEMAND FOR JURY TRIAL
)	
CRAIG MCCRUMB,)	
Individually and in his official)	
Capacity as Superintendent of)	
Durand Area Schools,)	
)	
and)	
)	
AMY LEFFEL,)	
Individually and in her official)	
Capacity as Principal of Robert)	
Kerr Elementary School,)	
)	
and)	
)	
MICHAEL PAPANЕК,)	
Individually and in his official)	
Capacity as On Track Coach of)	
Robert Kerr Elementary School,)	
)	
Defendants.)	

COMPLAINT

I. INTRODUCTION

1. This is an action under 42 U.S.C. § 1983 for various violations of Plaintiff's constitutional rights. Plaintiff seeks declaratory and injunctive relief against the Defendants as well as nominal damages.

II. JURISDICTION & VENUE

2. This Court has jurisdiction under 28 U.S.C. § 1331 and 28 U.S.C. 1343.
3. Venue is proper because Defendants are located in this District, and Plaintiff resides in this District.

III. PARTIES

4. Plaintiff C.S. is a citizen of the United States and a resident of the State of Michigan.
5. Plaintiff is a minor and appears by her next friend, Adam Stroub ("Stroub"), who is her father and natural guardian.
6. Plaintiff is a student at Robert Kerr Elementary School, a public school operated by the Durand Area Schools in Durand, Shiawassee County, Michigan.
7. Plaintiff is currently in the 3rd grade.
8. It is anticipated that during the 2022-2023 school year, Plaintiff will be a 4th grader in Robert Kerr Elementary School.
9. It is anticipated that during the 2023-2024 school year, Plaintiff will be a 5th

grader at Robert Kerr Elementary School

10. It is anticipated that during the 2024-2025, 2025-2026, and 2026-2027 school years, Plaintiff will be enrolled in Durand Middle School, which is also operated by Durand Area Schools.

11. It is anticipated that during the 2027-2028, 2028-2029, 2029-2030, and 2030-2031 school years, Plaintiff will be enrolled in Durand Area High School, which is also operated by Durand Area Schools.

12. Defendant Craig McCrumb is the Superintendent of Durand Area Schools.

13. Defendant Amy Leffel is the Principal of Robert Kerr Element School.

14. Defendant Michael Papenek is the On Track Coach at Robert Kerr Elementary School.

15. For all purposes relevant to this Complaint, Defendants were acting under color of state law, as that phrase is used in 42 U.S.C. § 1983.

IV. FACTUAL BACKGROUND

16. On February 17, 2022, Plaintiff wore a baseball-style hat to school (the “Hat”).

17. February 17, 2022 was “hat day,” on which students were encouraged by the school to wear hats.

18. The Hat was black and featured a white star, an image of an AR-style rifle,

and the words, “Come and take it.”

19. An image of the Hat is attached to this Complaint as Exhibit 1.
20. The words, “Come and take it,” especially when used with an image of a star and some kind of weapon, are a common slogan used to show support for the right to keep and bear arms.
21. The words, “Come and take them,” or a derivation thereof, are reputed to have been used by King Leonidas I (of Sparta) during the Battle Thermopylae (480 B.C.) in response to a demand by Xerxes (of Persia) for the Spartans to lay down their arms and surrender.
22. The Greek words “*molon labe*” from which the English translation “come and take them” was derived, were used by the I Army Corps of Greece and the Second Infantry Division of Cyprus during World War I.
23. The words “*molon labe*” are the sole inscription on a bronze statue of Leonidas erected at Thermopylae in 1955.
24. The words “come and take it” were used by American Col. John McIntosh on November 25, 1778, who was defending Ft. Morris, Georgia against a British attack, in response to a British demand for the surrender of the fort. The British declined to attempt to do so.
25. Texans created the “Gonzales flag” during the Texas Revolution after

Mexico demanded that Texas return a small cannon that Mexico had previously supplied to the colony of Gonzales, Texas, for its defense.

26. The Gonzales flag features a single star (the Texas “lone star”), a drawing of the cannon, and the words, “Come and take it.”
27. A copy of the Gonzales flag is attached to this Complaint as Exhibit 2.
28. The words “*molon labe*” are the motto of the United States Special Operations Command Central.
29. C.S. understands the meaning of the inscription on the Hat and the importance of the inscription to the support of the right to keep and bear arms.
30. C.S. supports the right to keep and bear arms and enjoys shooting sports.
31. C.S. picked the Hat herself to wear to school on hat day.
32. On the morning of February 17, 2022, Defendant Papanek telephoned Stroub and asked if Stroub would bring to school a different hat that C.S. could wear.
33. Stroub declined to do so.
34. Defendant Leffel also telephoned Stroub that day and left a voice mail message that C.S. could not wear the Hat at school.
35. When C.S. returned home from school, C.S. told Stroub that C.S. was not

allowed to wear the Hat and was made by Papanek and Leffel to put it in her locker.

36. Stroub emailed Defendant Leffel to inquire about the situation.

37. Defendant Leffel confirmed that C.S. was not permitted to wear the Hat.

38. Defendant Leffel said in her email, “The hat in question had a picture of an AR type weapon on the front of it. Weapons of any kind are not appropriate for students to wear in a school setting.”

39. Defendant Leffel also stated that Defendant McCrumb was present at the school “when I addressed this earlier today.”

40. Defendant Leffel copied Defendant McCrumb on the email to Stroub.

41. The dress code at Kerr Elementary School provides, in pertinent part, “Anything printed on clothing must not be offensive in any way. The building principal/staff has the right to decide what is offensive, but some examples are: words/slogans that advertise illegal substances, words/slogans that are racially or religiously offensive, violence themes, vulgar or sexual innuendo, etc.”

42. The Hat is not offensive and only portrays support for the right to keep and bear arms in a non-violent, non-threatening manner.

43. The Hat contains pure speech.

44. The speech is protected by the First Amendment.

45. C.S. would like to wear the Hat again on future hat days, but she is in fear of discipline or being singled out for corrective treatment by Defendants if she does so.

Count 1 – Violations of First Amendment

46. By restricting Plaintiff's clothing based on words and images that are non-threatening, non-disruptive, and non-vulgar, Defendants are violating Plaintiff's freedom of speech guaranteed by the First Amendment.

47. By deciding on a case-by-case basis what clothing is "offensive," Defendants' restrictions are unconstitutionally vague.

Count 2 – Violation of the Due Process Clause of the Fourteenth Amendment

48. By not providing Plaintiff with objective criteria for knowing what clothing is prohibited, Defendants are denying Plaintiff due process.

Prayer for Relief

Plaintiffs demand the following relief:

49. A declaration that Plaintiff's wearing the Hat is protected speech and may not be restricted.

50. A preliminary and permanent injunction prohibiting Defendant from restricting Plaintiff from wearing the Hat.

- 51. Nominal damages.
- 52. Attorney's fees and costs for bringing and maintaining this action, pursuant to 42 U.S.C. § 1988.
- 53. Any other relief the Court deems proper.

JOHN R. MONROE,

/s/ John R. Monroe

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ATTORNEYS FOR PLAINTIFF

Exhibit 1



Exhibit 2

