

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

J.W., et al.,

Plaintiffs,

v.

A.C. ROPER, et al.,

Defendants.

CLASS ACTION

CASE NO. CV-10-B-
3314-S

PLAINTIFFS' MOTION FOR CLASS ACTION CERTIFICATION

Pursuant to Federal Rule of Civil Procedure 23(b), the Plaintiffs respectfully move this Court to issue an order certifying named Plaintiffs J.W., by and through his next of friend, Tammy Williams; G.S., by and through her next for friend, LaTonya Stearnes; T.L.P., by and through her next of friend Tarra Pritchett; B.D., by and through her next of friend, Angela Davis; and K.B., by and through her next of friend, Shelise Monroe, to represent a class composed of all students who attend high schools in Birmingham City Schools. The Plaintiffs seek class certification for injunctive and declaratory relief. The motion is based upon the accompanying memorandum of law and supporting declarations.

One or more named plaintiffs may bring suit as representative parties on behalf of a class if:

- (1) the class is so numerous that joinder of all members is impracticable;
- (2) there are questions of law or fact common to the class;

- (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class; and
- (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a). Each requirement is met in this case.

First, there are approximately 8,000 students enrolled in Birmingham City high schools. The number of students makes joinder of all class members impracticable. Second, this action involves questions of law and fact that are common to all class members. Third, the claims of the named Plaintiffs are typical of the class because they all arise from the constitutionally deficient policy and practices of Defendant Birmingham Police Department Chief A.C. Roper that governs the use of mace on children attending Birmingham City high schools, along with Defendant Roper's failure to train and supervise police officers that deploy mace against the students. Fourth, the named Plaintiffs will fairly and adequately represent the interests of the class. The named Plaintiffs have a personal interest in this action, and Plaintiffs' counsel are experienced in class action litigation and will vigorously pursue this case on behalf of the class.

Because the Defendant has acted and refused to act on grounds generally applicable to the class, and certification is only being sought for declaratory and injunctive relief, class certification is proper under Federal Rule of Civil Procedure 23(b)(2).

For the foregoing reasons and explained in the supporting memorandum of law, the Plaintiffs request that the Court grant this motion for class certification.

Respectfully submitted,

/s/ Ebony Glenn Howard
Ebony Glenn Howard (ASB-7247-O76H)
Mary C. Bauer (ASB-1181-R76B)
SOUTHERN POVERTY LAW CENTER
400 Washington Avenue
Montgomery, Alabama 36104
334-956-8200
334-956-8481 (fax)
C o n e f o r n f f

CERTIFICATE OF SERVICE

I hereby certify that on the 17th day of October, 2011, I electronically filed the foregoing with the clerk of the court by using

Birmingham, Alabama 35203

Office (205) 254-2369

Thomas.Bentley@ci.birmingham.al.us

Frederick.Fullerton@ci.birmingham.al.us

Co n e f o r B r n o c e D e p r e n