

**IN THE FEDERAL DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

WILLIAM CODY CHILDRESS, a minor,)
by and through John Childress, Natural Father;)

Civil Action No.: 2:10-CV-24-P-A

Plaintiff)

v.)

TATE COUNTY SCHOOL DISTRICT;)
GARY WALKER, TCSD Superintendent, in his)
official and individual capacities; COREY)
BLAYLOCK, Independence High School)
Principal, in his official and individual capacities,)

Defendants.)

**MOTION FOR PRELIMINARY INJUNCTION, OR, IN THE ALTERNATIVE,
A TEMPORARY RESTRAINING ORDER**

COMES NOW Plaintiff, WILLIAM CODY CHILDRESS, by and through his natural father, John Childress, moves this Court pursuant to Fed. R. Civ. P 65 for a preliminary injunction, or, in the alternative, a temporary restraining order in this case and in support thereof would show unto the Court the following, to wit:

I.

Plaintiff seeks a preliminary injunction enjoining Defendants from utilizing corporal punishment as a form of student discipline. In the alternative, Plaintiff would move for a temporary restraining order enjoining the use of corporal punishment by officers, agents, servants, employees and attorneys, and all other persons in active concert or participation with Defendants until his motion for a preliminary injunction can be heard.

II.

Plaintiff seeks a preliminary injunction enjoining enforcement of §§ 37-11-57 and 11-46-9(x); the statutory framework that provides school officials with immunity when inflicting corporal punishment on its students. In the alternative, Plaintiff would move for a temporary restraining order enjoining the enforcement of the said statutes until his motion for preliminary injunction can be heard.

III.

As more fully explained in the accompanying memorandum of law, an immediate injunction is warranted because Plaintiff will suffer irreparable harm if the challenged provisions continue to shield educators from liability, Plaintiff is likely to succeed on his claims that the statutes violate the United States Constitution, the public interest would be served by an injunction and Defendants will suffer no harm if an injunction is granted. *Robo, Inc. v. Marquis*, 902 F.2d 356 (5th Cir. 1990). *See also Hull v. Quitman County Bd. of Educ.*, 1 F.3d 1450, 1453 (5th Cir. 1993) (*citing Robo, Inc.*).

IV.

In the alternative, Plaintiff requests that this Court issue a temporary restraining order enjoining Defendant's use of corporal punishment, as well as the application of §§ 37-11-57 and 11-46-9(x) to the schools of the State of Mississippi, pending the determination of Plaintiff's preliminary injunction motion.

V.

This motion is based upon the filed Verified Complaint, including attached exhibits, in this case, this motion and the memorandum of law filed herewith.

VI.

Due to the constitutional nature of this action and the public policy interests it represents, Plaintiff requests that bond be waived or nominal bond required, and for such are further as this Court deems fit.

VII.

Plaintiff, to the best of his ability, has notified Defendants of his intention to move for a Preliminary Injunction, or in the alternative, a Temporary Restraining Order in writing. *See* Certification of Joseph R. Murray, II, (attached hereto as Exhibit “A”).

VIII.

Notice was given to the Mississippi State Attorney General’s Office pursuant to MRCP 24(d). *Id.*

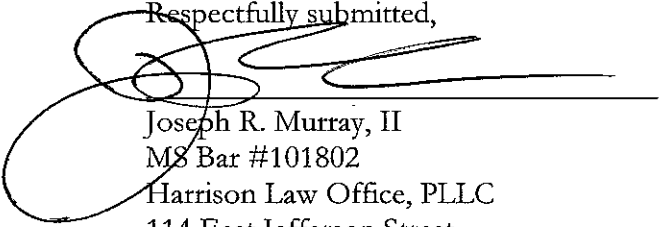
IX.

Plaintiff moves, pursuant to Local Rule 7.2 (F)(1), for a hearing and/or oral argument concerning the merits of Defendant’s motion at a date to be determined by the court. The issues presented by this motion, coupled with the nature of Plaintiff’s case, suggest a hearing/oral argument would be beneficial to the Court..

WHEREFORE, Plaintiff moves this Court to enter a Preliminary Injunction enjoining the use of corporal punishment by Defendants, their officers, agents, servants, employees and attorneys, and all other persons in active concert or participation with Defendants and, in addition, enjoining the application of §§ 37-11-57 and 11-46-9(x) to the schools of the State of Mississippi, or, in the

alternative, a Temporary Restraining Order enjoining both actions until the Plaintiff's motion for preliminary injunction can be heard.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Joseph R. Murray, II', is written over a horizontal line. The signature is stylized with loops and a long horizontal stroke.

Joseph R. Murray, II
MS Bar #101802
Harrison Law Office, PLLC
114 East Jefferson Street
Ripley, MS 38663

W. Brent McBride
MS Bar # 101442
McBride Law Firm, PLLC
P.O Box 84
Tupelo, MS 38802

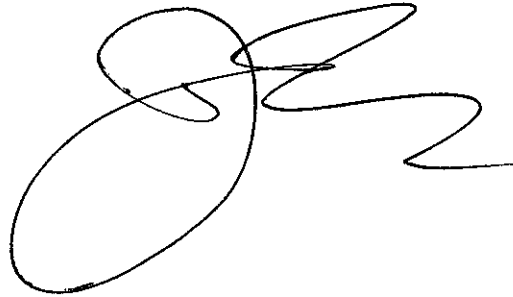
CERTIFICATE OF SERVICE

I hereby certify that on February 19, 2010, I, Joseph R. Murray, II, attorney for Plaintiff, do hereby certify that I electronically filed the foregoing document with the Clerk of the Court using the ECF system. This document will be served upon Defendants concurrently with the Verified Complaint at the below listed addresses:

Gary Walker
107 Court Street
Senatobia, MS 38668

Corey Blaylock
3184 Hwy 305
Coldwater, MS 38618.

John Lamar, Esq.
214 Ward South
Senatobia, MS 38668

A handwritten signature in black ink, appearing to be "Joseph R. Murray, II", written in a cursive style.

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Plaintiff)

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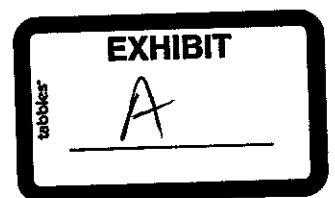
v.)

TATE COUNTY SCHOOL DISTRICT;)
GARY WALKER, TCSD Superintendent, in his)
official and individual capacities; COREY)
BLAYLOCK, Independence High School)
Principal, in his official and individual capacities,)
)
Defendants.)

**DECLARATION OF JOSEPH R. MURRAY, II, AS NOTICE OF INTENT TO
SEEK A PRELIMINARY INJUNCTION, OR, IN THE ALTERNATIVE,
A TEMPORARY RESTRAINING ORDER**

Joseph R. Murray, II, upon oath and affirmation, hereby deposes and says:

1. I am over the age of twenty-one (21) and competent to make this statement.
2. I am a Trial Attorney for Harrison Law Office, PLLC., in Ripley, Mississippi.
3. I was retained by John Childress, on behalf of his minor son William Cody Childress regarding an excessive paddling he received while in the care and custody of the Tate County School District. In reviewing the case I discovered evidence to suggest Plaintiff was paddled because he was a male student and that his paddling was excessive and unreasonable.
4. On February 18, 2010, Plaintiff filed a federal lawsuit in the Northern District of Mississippi.
5. I served Mr. Gary Walker, Superintendent of the Tate County School District and Mr. Corey Blaylock, Principal of the Independence High School, with Plaintiff's motion for a

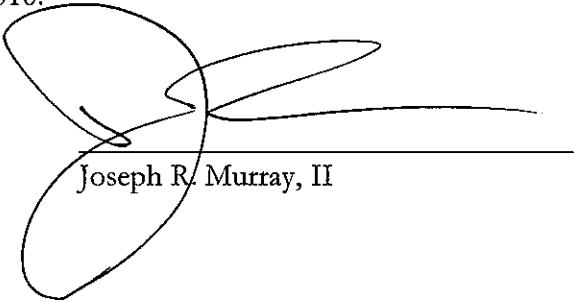


preliminary injunction or, in the alternative, a temporary restraining order and his supporting memorandum of law concurrently with Plaintiff's verified complaint.

7. I gave notice to the Mississippi Attorney General's Office pursuant to MRCP 24(d).

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 19th day of February, 2010.



Joseph R. Murray, II