

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY LATOUR, a minor, and JOHN A.)
LATOUR and DENISE LATOUR, as parents and)
natural guardians of Anthony Latour and in their)
individual capacity,)

Plaintiffs,)

v.)

RIVERSIDE BEAVER SCHOOL DISTRICT,)

Defendant.)

Civil Action No. _____

VERIFIED COMPLAINT

Plaintiffs Anthony Latour, a minor, and his parents, John and Denise Latour, by and through their undersigned counsel, file this Verified Complaint against Defendant Riverside Beaver School District, averring as follows:

INTRODUCTION

This First Amendment free speech case presents the important legal question whether a public school can expel a middle-school student for writing rap music in his own home and publishing it on the Internet and through CDs, simply because the music contains metaphoric violent, but constitutionally-protected, lyrics, when the songs caused no disruption in the school. If the school's disciplinary action is sustained, much of rap music, which as a genre contains lyrics just like the ones at issue here, will effectively become illegal within the district. Hence, the consequences of a decision upholding the district's punishment are significant: If the punishment in this case is allowed to stand – where the school district has punished a student solely on the basis of the words he used in an artistic creation and cannot point to any reason, let alone a particularized reason, why it believes the language of the rap songs are actual threats –

then students in the district will be forever outlawed from writing or singing an entire genre of music.

This lawsuit seeks declaratory, injunctive and monetary relief to vindicate the student's constitutional right of free expression, the parents' constitutional right to direct and control the upbringing of their own child while he is in their home, and to invalidate unduly vague and overbroad rules that unconstitutionally authorize officials to punish students for expression occurring outside the school and which have no impact on the school.

JURISDICTION

1. This action to vindicate Plaintiffs' rights protected by the First and Fourteenth Amendments to the United States Constitution is brought pursuant to 42 U.S.C. § 1983. This Court has jurisdiction over this action under 28 U.S.C. § 1331(a) and § 1343(a)(3) and (4). This Court also has jurisdiction under 28 U.S.C. §§ 2201 and 2202 to declare the rights of the parties and to grant all further relief deemed necessary and proper. Finally, this Court has supplemental jurisdiction to adjudicate the pendant state law claim pursuant to 28 U.S.C. § 1367(a). Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391, *et seq.*

PARTIES

2. At all times relevant to the matters complained of herein, Plaintiff Anthony Latour ("Anthony") was a middle school student in his eighth grade year at Riverside Beaver Middle School. He expected to graduate from the Middle School in the Spring of 2005 and to begin his freshman year at Riverside Beaver High School in the Fall of 2005. Anthony's birthday is May 15, 1991.

3. Plaintiffs John A. and Denise Latour ("Mr. and Mrs. Latour") are Anthony's parents. Mr. and Mrs. Latour are citizens of the United States who reside in Beaver County, Pennsylvania.

4. Defendant Riverside Beaver School District (“School District” or “Riverside”) is a political subdivision of the Commonwealth of Pennsylvania. The School District’s headquarters are located at 318 Country Club Drive, Ellwood City, Pennsylvania. The School District acts by and through its School Board and its officials.

OTHER INVOLVED INDIVIDUALS

5. Steven Girting (“Girting”) was at all relevant times the principal of Riverside Middle School and was acting under color of state law. In his capacity as the principal of Riverside Middle School, Girting was responsible for ensuring that the school and its officials act in conformity with the United States Constitution, the Pennsylvania Constitution, and all applicable federal and state laws.

6. Bret Trotta (“Trotta”) was at all relevant times the assistant principal of Riverside Middle School and was acting under color of state law. In his capacity as the assistant principal of Riverside Middle School, Trotta was responsible for ensuring that the school and its officials act in conformity with the United States Constitution, the Pennsylvania Constitution, and all applicable federal and state laws.

FACTS

ANTHONY BEGINS WRITING AND RECORDING ORIGINAL RAP SONGS

7. Since 2002, Anthony has been committed to the artistic pursuit of writing original rap songs. Because Anthony is so committed to his artistic pursuit, the Latour family has gone to considerable expense to provide Anthony with recording equipment on which to record performances of his original musical compositions. Anthony has recorded many songs, publishing them on CDs and on Internet websites.

8. As the School District has acknowledged, Anthony never wrote or recorded rap music while at school and never brought recordings of his music or copies of his song lyrics to school.

9. Anthony's rap music is in the Hip-Hop genre, and his songs are "battle rap."

10. Hip-Hop is a culture, which has been defined as follows: "hip-hop: the artistic response to oppression. A way of expression in dance, music, words/song. A culture that thrives on creativity and nostalgia. As a musical art-form it is stories of inner-city life, often with a message, spoken over beats of music. The culture includes rap and any other venture spawned from the hip-hop style and culture."

11. Battle rap is metaphorical. A battle is a contest among rappers for "bragging rights" and to "see who is the best." A rapper declares that his rhymes are better than those of others and, simultaneously, challenges other rappers' songwriting ability. Put another way, "battling" is when two hip-hop vocalists (MC's) conduct a verbal contest – where a rapper showcases his or her own lyrical skills and diminishes the lyrical skills of the other MC, and thereby seeks to gain the favor of the crowd. Although battling traditionally takes place in front of a live audience, the Internet has now become a forum for on-line battles and also provides a forum for rappers to practice their lyrical skills. Battle rappers also rhyme just to have fun or exercise their lyrical skill. Unlike "free-style" raps, battle raps are written in advance of performance, and thus a battle rapper is able to create more complex and wittier verses than he or she would be able to create in a freestyle battle.

See <http://www.nationmaster.com/encyclopedia/Battle-rap>.

12. Hip-hop has its own vocabulary, much of which is metaphoric. Hip-hop, and the music that is part of that culture, can be misunderstood if not considered in context. Words as used in the hip-hop vernacular often are figurative, not literal – and do not mean what they otherwise would mean colloquially. For instance, “whack” means “bad” in the vocabulary of hip-hop. Moreover, because hip-hop is metaphorical, raps must be interpreted from that perspective. For instance, a battle rapper’s use of the phrase “R.I.P.” does not connote an actual threat of physical violence, but instead that the rapper is going to end the rap career of the other rapper involved in the lyrical challenge. Moreover, in the lyrical tradition of rap, narrative raps about controversial events (even when written in the first person) are figurative, not literal.

13. One rap song on which the School District bases its punishment of Anthony was written as part of a rap battle with another Riverside high school student (“John Doe,” a pseudonym used to protect the privacy of a minor), who also is a rapper. At the expulsion hearing, John Doe testified that rap music is not intended or understood as a threat of physical harm. Instead, as John testified, rap songs and their lyrics – even those containing violent language – are “just rhymes.”

**BETWEEN 2002 AND MARCH 2005, ANTHONY WRITES THE RAP SONGS
ON WHICH THE SCHOOL DISTRICT BASES ITS MAY 2005 PUNISHMENT OF HIM**

14. On May 5, 2005, Riverside first suspended Anthony from school, and then on May 17, 2005 expelled him for two years because of four rap songs that he wrote over a two-year period, none of which Anthony brought to school. (On July 17, 2005, the District’s School Board ratified its decision in an Adjudication and Decree).

15. Riverside’s punishment of Anthony is based on four different pieces of music that he wrote and recorded in his own home: (1) songs written in 2002 that mention another middle school student (“Jane Smith,” a pseudonym used here to protect the minor’s

privacy); (2) the first track on a CD recorded in November 2004; (3) the song that Anthony wrote as part of a “rap battle” with John Doe, who also raps; and (4) another song Anthony wrote and uploaded onto his personal Internet website.

16. Sometime in 2002, Anthony and Jane Smith began to exchange adolescent taunts such as “you are gay” or “you are fat.”

17. In the Fall of 2003, Anthony wrote and recorded the songs that made mention of Jane Smith, after she had been bullying other students. Anthony never gave a copy of the songs to Jane.

18. Nothing of real significance occurred between the two students again until February 2005, when Mrs. Smith (Jane Smith’s mother) spoke with Anthony in an effort to resolve the dispute between Anthony and Jane. As a result of discussions, Anthony and Jane resolved their differences. Anthony sent an “instant message” (a common form of Internet communication) to Jane and said he was sorry. Jane messaged back “Truce.” Anthony sent a return message saying “Truce.”

19. In November 2004, Anthony recorded a CD containing 13 songs he had written. He made approximately 100 copies of the CD, and it was sold throughout the community. Anthony used the proceeds to purchase a microphone for his music studio.

20. Riverside teachers knew that Anthony wrote rap music and were aware of the CD. In fact, a track from the CD was played at a school dance in December 2004. The student DJ brought the CD to the dance and showed it to one of the teachers chaperoning the dance. The teacher was curious about what the CD sounded like and gave the student DJ permission to play a track from the CD.

21. One song that formed the basis for Anthony's expulsion is found on this CD from November 2004. It is titled, "Murder He Wrote." The song is a third-party narrative story about the incident at Columbine, reflecting Anthony's attempt to imagine what could have been going on inside the heads of the students who perpetrated the tragedy. Anthony did not really know the details of the Columbine incident until June 2005 (over 7 months after Anthony wrote the song) when he watched a PBS documentary concerning the incident with his father. Anthony did not intend to glamorize or approve the actions at Columbine, but rather wanted to write a narrative about on a topical issue.

22. At the May 17, 2005 expulsion hearing, Trotta and Girting testified that they believe that the first song on the CD is about Riverside and that the song mentions Riverside by name.

23. Girting and Trotta's knowledge of the song's lyrics came only from listening to the song. When they decided to punish Anthony, they had not read the song's lyrics, which were not (and still are not) available to the public in written form.

24. Trotta and Girting's interpretation of the song is incorrect. The song is not about Riverside. For instance, the lyric school officials believe is "Riverside" is actually "ripped inside." Anthony would have explained this, but school officials admitted that they never made any attempt to speak with Anthony to determine if their interpretation of the song was correct and to learn what Anthony intended his lyrics to express.

25. In or about March 2005, Anthony began exchanging internet "instant messages" with John Doe, who is a Riverside High School student who publicly portrays himself as a rapper. Anthony and John entered into a rap battle. At the expulsion hearing, John Doe

admitted that he had a “diss” on Anthony. (A “diss” is a rap focusing on another rapper and which “calls out” or lyrically challenges that rapper).

26. Anthony wrote a song entitled “Massacre” as part of the rap battle with John Doe. After Anthony wrote and recorded “Massacre,” he downloaded it onto his personal webpage, located on an Internet location “soundclick.com”. Anthony’s page on the “soundclick” website identifies “Massacre” as part of a rap battle. John Doe also posts his songs on various Internet sites.

27. At the expulsion hearing, John Doe admitted that rap lyrics – like his own and Anthony’s – are “just rhymes.” When asked to explain the lyrics to his own songs about Anthony – which include the lyrics “nigga betta duck if I pump up pumping slugs” and “see, give me a reason to keep you breathing on this earth for one more evening” – John testified that he did not intend these lyrics as threats and he did not intend to actually harm Anthony or anyone else.

28. The lyrics of “Massacre” plainly indicate that the song was written as part of the rap challenge between Anthony and John. These lyrics include:

You cant rap put your #@\$@#\$ pencil down

Im smackin you back to wherever the #@\$@#\$ you came from
Its been like that since day 1, jus another steady day
You better pray or get away I set it straight with melodays
And after that I shatter wackness put ya matter in a casket
But madness catches static case this battle crashin down
I bring tha track back around and beat you lyrically

29. John testified at Anthony’s expulsion hearing that he was not afraid to go to school after listening to “Massacre,” was not afraid of Anthony, and did not believe that Anthony intended to harm him. John also testified that he did not notify any school authorities about “Massacre.

30. In or about March 2005, Anthony wrote and recorded a song entitled “Actin Fast ft. [featuring] Grimey” and downloaded the song onto his personal webpage. This is the fourth song identified by Riverside as the basis for Anthony’s expulsion.

31. The song is about “acting fast . . . rapping fast, etc.” Anthony intended to use the song as an introduction at live shows, and it is a general rap battle challenge to other rappers. (Grimey is the nickname of Anthony’s friend and rap partner.).

32. Anthony would have explained his lyrics and their context – a challenge to other rappers – if school officials had only asked him about the song.

THE SCHOOL DISTRICT PUNISHES ANTHONY

33. On May 5, 2005, the Riverside Beaver School District notified Mr. and Mrs. Latour that Anthony had been suspended from Riverside pending a hearing to be held before the school board to determine an “appropriate” punishment for Anthony. Anthony’s rap songs were the stated basis for the School District’s punishment of Anthony.

34. The North Sewickley Township police arrested Anthony and charged him with terroristic threats over the lyrics of his rap songs. Those charges, in Beaver County Juvenile Court, are still pending.

35. On May 17, 2005, the Riverside Beaver’s School Board convened an expulsion hearing.

36. At the hearing, Trotta testified that sometime in early March 2005, Jane Smith’s mother complained to him about the songs that Anthony has written in 2003 about Jane and gave him a CD containing the songs.

37. Jane Smith did not attend the March 2005 meeting. Trotta admitted that Jane had never expressed any indication to school officials that she felt threatened by Anthony’s

music. In fact, the School District admitted that no school official has ever spoken to Jane about Anthony's rap songs. Jane did not attend the May 17, 2005 expulsion hearing.

38. The School District admitted that school officials made no attempt to determine what Anthony intended the words of these songs to mean and, in fact, never discussed these songs with Anthony.

39. Riverside adduced no evidence at the May 17, 2005 expulsion hearing showing either that Anthony intended his rap songs about Jane Smith to be an expression of an actual intent to cause her harm or that Anthony would foresee that Jane would interpret the songs as a serious expression of an intent to inflict actual harm. Riverside also adduced no evidence that Jane Smith actually felt "threatened" by Anthony's rap songs.

40. Although the School District believes that Jane left Riverside and "had a nervous breakdown" because of Anthony's songs, Plaintiffs believe and therefore aver that Jane left Riverside for a variety of reasons and that she is happy in Arkansas, where she has been living with her aunt.

41. At the expulsion hearing, Trotta testified that sometime in March 2005, Girting gave him a CD containing Anthony's rap music. This is the CD that Anthony recorded in November 2004. Trotta and Girting testified that they punished Anthony based on the first track on the CD, "Murder He Wrote," which they believe is about Riverside.

42. Riverside adduced no evidence at the May 17, 2005 expulsion hearing showing either that Anthony intended "Murder He Wrote" as an expression of an actual intent to cause harm to the school, its students or faculty or that Anthony would foresee that the persons who would listen to "Murder He Wrote" (which is on a CD with twelve other songs) would interpret the song as a serious expression of intent to inflict actual harm. Although Trotta claims

that a student spoke to him about the song in mid-March 2005, he never asked the student to explain how or why he felt “threatened.” Nor did Trotta ask the student to provide him with a copy of the CD or the song lyrics, talk to other students, or even talk to Anthony.

43. At the expulsion hearing, Trotta testified that sometime in March 2005, a student told him about a song entitled “Massacre” posted on Anthony’s personal website. Trotta then accessed the song from the computer in his office.

44. Riverside adduced no evidence at the May 17, 2005 expulsion hearing showing either that Anthony intended “Massacre” as an expression of an actual intent to cause harm to John Doe or that Anthony would foresee that John Doe or others who heard the song would interpret it as a serious expression of intent to inflict actual harm.

45. John Doe testified that he was not afraid to go to school after listening to “Massacre,” was not afraid of Anthony, and did not believe that Anthony intended to harm him. John also testified that he did not notify any school authorities about “Massacre. The School District Adjudication references the fact that John missed a week of school. However, John testified that he was not absent because he felt threatened by Anthony’s song, but instead because his mother kept him home from school after an altercation with another student who was upset that John would not admit to his mother that he (John) was a rapper and was not afraid of Anthony. This altercation took place after Anthony was punished.

46. Trotta testified that on the same day that he accessed the lyrics to “Massacre,” he also accessed another song entitled “Actin Fast ft. Grimey” from Anthony’s personal webpage.

47. Riverside adduced no evidence at the May 17, 2005 hearing showing either that Anthony intended “Actin Fact ft. Grimey” as an expression of an actual intent to cause

harm against the school or its faculty or students or that Anthony would foresee that the persons who heard the song would interpret it as a serious expression of an intent to inflict actual harm. Riverside also adduced no evidence that anyone actually felt threatened by “Actin Fast ft. Grimey.”

48. Despite now claiming that “Murder He Wrote” and “Actin Fast ft. Grimey” somehow threatened the school, Trotta and Girting admitted that they did not take immediate steps to investigate or guard against what they now claim are “threats.” For instance, they did not (1) talk to Anthony about the song; (2) search Anthony’s locker; (3) contact Anthony’s parents to discuss concerns; (4) direct Anthony to see the school’s guidance counselor or psychologist; or (5) take any other safety precautions to guard against what they now characterize as threats. Trotta and Girting also admitted that they did not take any disciplinary action against Anthony until more than one month after they first heard the songs.

49. Likewise, although the School District now attempts to justify its punishment of Anthony by claiming that the song “Massacre” threatened John Doe, school officials admit that they never spoke to John about the song before they punished Anthony. Moreover, school officials also admitted that they did not take immediate action to investigate or guard against what they now claim was a “threat.” For instance, they did not (1) talk to Anthony or John; (2) search Anthony’s locker; (3) contact Anthony’s parents to discuss concerns; (4) direct Anthony to see the school’s guidance counselor or psychologist; or (5) take John out of school; or (6) take any other action consistent with a belief that John was in danger. In fact, Trotta and Girting admitted that they did not take any disciplinary action against Anthony until more than a month after they listened to the song.

50. Although the School District now claims that it did not take immediate action because the police told them to “sit tight,” apparently to ensure that information did “not get around the school” and that “evidence was not destroyed,” school officials have the responsibility and authority to take appropriate steps whenever they believe the school or its students are threatened.

51. When evaluated in context, as is legally required, the four rap songs identified by the School District as the basis for Anthony’s expulsion – the songs about Jane Smith, “Murder He Wrote,” “Massacre” and “Actin Fast ft. Grimey” – are not true threats, but instead are metaphor, hyperbole and jest, *i.e.*, to use John Doe’s words, “just rhymes.” That is what Anthony intended and what Anthony reasonably expected Jane Smith, John Doe, or anyone else who heard the songs would understand upon hearing the songs. Hence, Anthony’s songs are constitutionally-protected speech.

52. At the expulsion hearing, Trotta and Girting admitted that none of Anthony’s rap songs – neither the songs about Jane Smith, “Murder He Wrote,” “Massacre” nor “Actin Fast ft. Grimey” – caused any disruption to the school day – let alone a substantial and material disruption. Hence, the School District’s expulsion of Anthony violates his constitutionally-protected right to free speech.

53. The School District cannot justify punishing Anthony, either the suspension or subsequent expulsion, by pointing to the fact that certain students wore T-shirts, stating “Free Accident [Anthony’s nickname],” after Anthony was excluded from school. The T-shirts were not precipitated by Anthony’s songs, but instead by the School District’s punishment of Anthony. Moreover, the wearing of T-shirts bearing messages expressing a viewpoint does not constitute a material and substantial disruption.

54. At the conclusion of the May 17, 2005 hearing, the School Board voted to expel Anthony for the remainder of the 2004-2005 academic year and the entire 2005-2006 academic year. On June 17, 2005, the School Board ratified an Adjudication and Decree expelling Anthony. Many of the findings of fact contained in the Adjudication are not supported by, or are directly contradicted by, the record of the May 17, 2005 expulsion hearing. Moreover, the legal conclusions are incorrect as a matter of law.

55. The School District based its punishment of Anthony on two provisions in the District's Student Handbook: "Exclusions from School: . . . (2) Activities which threaten the orderly functioning of school activities including classroom, extracurricular, and athletic activities . . . (8) Activities which threaten the safety and well-being of others." These policy provisions are unconstitutionally vague and overbroad, on their face and as applied to Anthony, in that they, *inter alia*, fail to distinguish out-of-school speech from in-school expression; are not limited to student speech that causes a material and substantial disruption to the school day; and have been applied to punish a student where there is no evidence of an actual threat to another. Riverside's vague and overbroad policies prohibit and chill speech that is protected by the First Amendment.

56. Riverside's decision to expel Anthony for writing rap songs violates his right to free speech protected by the First and Fourteenth Amendment to the United States Constitution and Article I, § 7 of the Pennsylvania Constitution and also violates Mr. and Mrs. Latour's rights under the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

57. Unless speech falls outside the protection of the First Amendment – *e.g.*, because it is a true threat or obscenity – it is protected by the Constitution and the government may not punish the speaker.

58. Speech does not constitute a “true threat” unless a speaker reasonably would foresee that his or her speech would be interpreted as a threat – *i.e.*, as a serious expression of an intent to commit an act of unlawful violence – by those to whom the speaker communicates the statement.

59. When determining whether a statement is a “true threat,” the statement must be examined in context and the totality of the circumstances must be considered. A generalized fear of “student violence” is not enough to demonstrate that a student’s speech is a “true threat.” As the Pennsylvania Supreme Court recently explained, “We too appreciate that in schools today violence is common and the horrific events at Columbine High School, Colorado remain fresh in the country’s mind. However, we find that the speech at issue [a web site asking “Why Mrs. F. (a teacher) should die?”] does not rise to the level of a true threat. Distasteful and even highly offensive communication does not necessarily fall from First Amendment protection as a true threat simply because of its objectionable nature.”

60. As a matter of law, Anthony’s rap songs were not “true threats” because (1) he did not intend the songs to be threatening to anyone or anything; (2) he would not have foreseen that the songs would be interpreted as a threat; and (3) there is no evidence that anyone actually understood Anthony’s songs to be true threats. Hence, Anthony’s rap songs are constitutionally-protected speech.

61. Moreover, when a student speaks outside of school, the applicable standard by which to evaluate a school district’s decision to restrict or punish that speech is the

standard that traditionally governs First Amendment issues arising in the community, *i.e.*, in this case that would be whether the speech is a “true threat” or can be classified as constituting a “clear and present danger.”

62. Nonetheless, even if a “school” standard rather than the general-community standard applies to a school district’s punishment of a student based on his or her expression outside of school, a school district violates the First Amendment unless the district can demonstrate that the expression would “*materially and substantially* interfere with the requirements of appropriate discipline in the operation of the school.” An “undifferentiated fear or apprehension of disturbance is not enough to overcome the right to freedom of expression.” Instead, a school district must be able to point to a “*particularized reason* as to why it anticipates substantial disruption [resulting from the speech it intends to prohibit or punish].”

63. The School District here cannot satisfy this First Amendment standard. School District officials admitted that Anthony’s rap songs caused no disruption at all – let alone a material and substantial disruption – to the school day.

64. Anthony and his parents have suffered injury as a result of the School District’s actions, including, but not limited to, emotional and physical pain and suffering and injury to his reputation.

65. Anthony will be a student in the Riverside Beaver School District for three more years. Mr. and Mrs. Latour are parents of children, including Anthony, who attend school in the School District and who are subject to the policies and practices of the School District.

66. The School District’s policies and practices, on their face and as applied by Riverside, are unconstitutionally vague and overbroad and thereby impermissibly allow for

the punishment of constitutionally-protected expression and gives the School District excessive authority and discretion to regulate students' expression both inside and outside of school.

67. The free speech rights of Anthony and the other child of Mr. and Mrs. Latour who attends school in the School District are adversely affected by these unconstitutional policies.

68. Riverside Beaver School District's actions in this case have a chilling effect on Anthony's free speech rights, as well as the free speech rights of all students in the School District.

69. Mr. and Mrs. Latour's constitutional rights *as parents* to raise their children as they see fit, a right protected by the Due Process Clause of the Fourteenth Amendment to the Constitution of the United States, are adversely affected by these unconstitutional policies.

70. Anthony and Mr. and Mrs. Latour have no adequate remedy at law for the restraint and chill on protected expression caused by the Riverside Beaver School District's unconstitutional actions, and which will continue to result from the School District's unconstitutional policies. Plaintiffs, therefore, require preliminary and permanent injunctive relief to protect Anthony's fundamental free speech rights and the free speech rights of other Riverside Beaver students, as well as to safeguard Mr. and Mrs. Latour's due process rights as parents to control the upbringing of their children.

COUNT I

FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

71. Defendant's punishment of Plaintiff Anthony Latour for his expression, including, but not limited to expression contained in his rap music, is a violation of his rights

under the First Amendment to the Constitution of the United States, as applied to the states by the Fourteenth Amendment to the Constitution of the United States, and 42 U.S.C. § 1983.

COUNT II

FIRST AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

72. Defendant's policies and rules are unconstitutionally vague and/or overbroad, on their face and as applied to Anthony Latour, and thus violate the First Amendment to the Constitution of the United States, as applied to the states by the Fourteenth Amendment to the Constitution of the United States, and 42 U.S.C. § 1983

COUNT III

ARTICLE I, §7 OF THE CONSTITUTION OF PENNSYLVANIA

73. Defendant's punishment of Plaintiff Anthony Latour for his expression including, but not limited to expression contained in his rap music, is a violation of his rights under Article I, §7 of the Constitution of Pennsylvania.

COUNT IV

FOURTEENTH AMENDMENT TO THE CONSTITUTION OF THE UNITED STATES

74. Defendant's punishment of Plaintiff Anthony Latour for constitutionally protected speech, including, but not limited to, speech that took place entirely within the Latour home, interfered with Mr. and Mrs. Latour's rights as parents to determine how to best raise, nurture, discipline, and educate their children in violation of Mr. and Mrs. Latour's due process rights.

WHEREFORE Plaintiffs Anthony Latour and John and Denise Latour respectfully request that this Court provide the following relief:

(a) Declare that the Riverside Beaver School District's disciplinary action against Anthony for the expression contained in his rap music violated Anthony's rights under

the First and Fourteenth Amendments to the Constitution of the United States and Article I, §7 of the Constitution of Pennsylvania;

(b) Declare that the Riverside Beaver School District's disciplinary action against Anthony for the expression contained in his rap music, which was created within the Latour home, violated Mr. and Mrs. Latour's rights under the Fourteenth Amendment to the Constitution of the United States;

(c) Declare that the Riverside Beaver School District's policies that have been and may be used to punish speech which takes place at a student's home and off of school grounds and outside of school-sponsored events are excessively vague and overbroad, and thereby violate the First and Fourteenth Amendments to the Constitution of the United States and Article I, §7 of the Constitution of Pennsylvania and violate Mr. and Mrs. Latour's rights under the Fourteenth Amendment to the Constitution of the United States;

(e) Preliminarily enjoin the Riverside Beaver School District's from punishing Anthony Latour for constitutionally protected speech;

(e) Permanently enjoin the Riverside Beaver School District's from punishing Anthony Latour for constitutionally protected speech;

(f) Order that the Riverside Beaver School District immediately reinstate Anthony Latour as a student in the School District;

(g) Order that the Riverside Beaver School District expunge from Anthony Latour's school records all references to the incidents in question;

(h) Award all reasonable damages in favor of the Plaintiffs and against the Defendants in an amount to be determined at trial;

(i) Award Plaintiffs' costs and attorney's fees pursuant to 42 U.S.C. §1988;

and

(j) Grant such other relief as this Court deems just and appropriate.

Dated: August 3, 2005

Respectfully submitted,

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