

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

Sarah Rose Jacobs, a minor, by her parent and natural guardian, Barbara Irene Jacobs;
Theodore Cochran Crellin, a minor, by his parent and natural guardian, Joan Cochran; Christopher W. Dale, a minor, by his parent and natural guardian, Gregg A. Dale; and Peter Knudson, a minor, by his parent and natural guardian, Elisa Knudson,

Plaintiffs,

vs.

Independent School District No. 625;
Thomas Conlon; Gilbert de la O;
Greg Filice; Rebecca Montgomery;
Al Oertwig; Mary Thorton Phillips;
and Neal Thao,

Defendants.

Court File No. _____

Complaint

Nature of the Action

1. This is an action brought for violations and threatened violations of plaintiffs' constitutional rights to equal protection of the laws under the Fourteenth Amendment to the United States Constitution, and for racial discrimination in violation of 42 U.S.C. §§ 1981, 1983 and 2000d *et seq.* Plaintiffs seek declaratory and injunctive relief and compensatory damages in an amount to be proven at trial.

Jurisdiction and Venue

2. This Court has jurisdiction of the action under U.S.C. §§ 1331 and 1343. This action arises under the Fourteenth Amendment to the United States Constitution and under federal laws, 42 U.S.C. §§ 1981, 1983, and 2000d *et seq.*

3. Venue in this Court is proper under 28 U.S.C. § 1391, and this Court has personal jurisdiction over the defendants in this matter because the events giving rise to this claim occurred, and will occur, in this district.

Plaintiffs

4. Sarah Rose Jacobs is a minor and, Barbara Irene Jacobs is her parent and natural guardian. They are

residents of the State of Minnesota. Sarah Rose Jacobs took an examination administered by defendants that qualified her for admission to the first-grade class of Capitol Hill Magnet School ("Capitol Hill") for the academic year that commenced in the fall of 1998. Capitol Hill is a public elementary school operated by defendants and located in the city of Saint Paul, Minnesota. Sarah Rose Jacobs has been denied admission to Capitol Hill and placed on a "wait list" of eligible students. She still desires to attend Capitol Hill and would enroll immediately if allowed to do so.

5.Theodore Cochran Crellin is a minor, and Joan Cochran is his parent and natural guardian. They are residents of the State of Minnesota. Theodore Cochran Crellin took an examination administered by defendants that qualified him for admission to the first-grade class of Capitol Hill for the academic year that commenced in the fall of 1998. He has been denied admission to Capitol Hill and placed on a "wait list" of eligible students. He still desires to attend Capitol Hill and would immediately enroll if allowed to do so.

6.Christopher W. Dale is a minor, and Gregg A. Dale is his parent and natural guardian. They are residents of the State of Minnesota. Christopher W. Dale took an examination administered by defendants that qualified him for admission to the first-grade class of Capitol Hill for the academic year that commenced in the fall of 1998. He has been denied admission and placed on a "wait list" of eligible students. He still desires to attend Capitol Hill and would enroll immediately if allowed to do so.

7.Peter Knudson is a minor, and Elisa Knudson is his parent and natural guardian. They are residents of the State of Minnesota. Peter Knudson took an examination administered by defendants that qualified him for admission to the second-grade class of Capitol Hill for the academic year that commenced in the fall of 1997. He remains eligible for admission to the third-grade class of Capitol Hill for the academic year that commenced in the fall of 1998. Peter Knudson has been denied admission to Capitol Hill and placed on a "wait list" of eligible students. He still desires to attend Capitol Hill and would enroll immediately if allowed to do so.

Defendants

8.Independent School District No. 625 ("District") is the body corporate under Minnesota law that has supervisory responsibility for public schools, including Capitol Hill, operated within the city of Saint Paul, Minnesota.

9.Defendants Thomas Conlon, Gilbert de la O, Greg Filice, Rebecca Montgomery, Al Oertwig, Mary Thorton Phillips and Neal Thao have at all material times herein been the duly elected members of the Board of Education for Independent School District No. 625 ("Board of Education"). As members of the Board of Education, each of these individuals has responsibility for the admission policies of Capitol Hill, including the admission policies in effect at the time that each of the plaintiffs applied for and became eligible for admission to Capitol Hill. They are sued herein in both their individual capacities and in their official capacities as members of the Board of Education.

Facts

10.The District is an instrumentality or political subdivision of the State of Minnesota and upon reasonable inquiry and information and belief is a recipient of federal funds.

11.The District and the Board of Education use racial or ethnic set asides in making admission decisions with respect to applicants to Capitol Hill.

12.Plaintiffs, who are white or caucasian, are not entitled to compete for spaces in the class at Capitol Hill that are set aside for members of another race or ethnicity.

13.Plaintiffs were not able to compete on an equal basis for all of the seats in the class because of the racial or ethnic set asides that defendants use in their admission policies for Capitol Hill.

14.Defendants do not compare applicants to Capitol Hill from certain racial or ethnic groups directly with applicants from other racial and ethnic groups in the award of all of the seats in the class at Capitol Hill.

15.In the case of the first-grade class for the academic year commencing in the fall of 1998 at Capitol Hill, defendants let and have continued to let available spaces in the class remain unfilled even though there are qualified white or other children whose names are on a "wait list" of those eligible to fill the spaces. Defendants have declined to fill the class with eligible students whose names are on the "wait list" on account of the race or ethnicity of the children.

16.Defendants, on the basis of race or ethnicity, maintain separate "wait lists" of children eligible for admission to Capitol Hill.

17.Defendants had and have no compelling interest to justify their use of race or ethnicity in the admissions process and were not motivated by either an interest in educational diversity or by a desire to remedy the present effects of past discrimination.

18.Defendants' racial and ethnic set asides in admission are intended by defendants to obtain racial and ethnic balance within the student body at Capitol Hill.

19.Assuming, *arguendo*, that defendants had a compelling interest for which they used race or ethnicity in admissions to Capitol Hill, the use of race or ethnicity was not narrowly tailored to achieve the compelling interest, and defendants did not consider race-neutral alternatives.

20.As a direct and proximate result of defendants' discriminatory use of race and ethnicity in the admissions process at Capitol Hill, plaintiffs have been denied an opportunity to compete equally for all of the seats in the class on account of their race or ethnicity, and they have been denied admission to the class.

21.Plaintiffs have suffered damages and injury in the nature of a deprivation of their constitutional rights to equal protection of the laws. They have also suffered humiliation and emotional distress as a consequence of the denial of their applications.

22.If not enjoined, defendants will continue to use race and ethnicity in an unlawful and discriminatory way in their admissions policies and practices for Capitol Hill.

First Claim

23.Plaintiffs repeat and reallege the allegations and averments of paragraphs 1 through 22 as if fully set forth herein.

24.Defendants acted under color of law in adopting and implementing admission policies that have denied plaintiffs equal protection of the laws, and that have discriminated against plaintiffs on the basis of their race or ethnicity in violation of 42 U.S.C. §§ 1981 and 1983.

25. Defendants Thomas Conlon, Gilbert de la O, Greg Filice, Rebecca Montgomery, Al Oertwig, Mary Thorton Phillips and Neal Thao violated plaintiffs' clear and well-established constitutional right to receive the same consideration for admissions as applicants of another race or ethnicity for all of the spaces in the class.

Second Claim

26. Plaintiffs repeat and reallege the allegations and averments of paragraphs 1 through 25 as if fully set forth herein.

27. The District, a recipient of federal funds, discriminated against plaintiffs on the basis of race, color, or ethnicity in violation of 42 U.S.C. § 2000d *et seq.*

Relief

WHEREFORE, plaintiffs demand judgment as follows:

A. Declaring that defendants violated their rights to equal protection of the laws under the Fourteenth Amendment of the United States Constitution and 42 U.S.C. §§ 1981, 1983, and 2000d *et seq.*

B. Enjoining defendants from continuing to discriminate on the basis of race in violation of the Fourteenth Amendment;

C. Awarding plaintiffs compensatory damages in an amount to be proven at trial;

D. Ordering defendants to admit plaintiffs to Capitol Hill Magnet School;

E. Awarding attorneys' fees and costs pursuant to 42 U.S.C. § 1988 and any other applicable authority; and

F. Providing any other relief that is appropriate and just.

Dated: April 12, 1999.

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