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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO

BRENNAN NICHOLSON,

Plaintiff,

v.

RUBEN DELGADILLO, MIKE LARIMER,
AND DOES I-X,

Defendants.

Case No. 12-470

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

I. PRELIMINARY STATEMENT

1. This is a civil rights action brought under 42 U.S.C. § 1983 arising out of the sexual harassment, sexual assault, and sexual battery inflicted on Brennan Nicholson by a School Resource Officer employed by the Caldwell Police Department.

II. JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this Complaint under 42 U.S.C. § 1983 and 28 U.S.C. §§ 1331 and 1343.

3. This Court has venue over this matter pursuant to 28 U.S.C. § 1391.

III. PARTIES

4. Plaintiff Brennan (“Brennan”) Nicholson is an individual residing in Pierce County, Washington.

5. Defendant Ruben Delgadillo is an individual who, upon information and belief, resides in Canyon County, Idaho.

6. Defendant Mike Larimer is an individual who, upon information, and belief, resides in Canyon County, Idaho.

7. Defendants Does I-X are other State actors who directly or indirectly participated or allowed the victimization of Brennan to commence or continue.

IV. FACTUAL ALLEGATIONS

8. At all times relevant to this Complaint, Ruben Delgadillo (“Delgadillo”) was a police officer with the Caldwell Police Department (“Caldwell Police”). Delgadillo was assigned as a School Resource Officer (“SRO”) to the Caldwell School District.

9. The Caldwell Police represent to the public that SRO’s protect the students and make a safer educational environment.

10. Brennan was a student at Vallivue View High School, within the Caldwell School District.

11. Delgadillo used his position as an SRO at Vallivue View High School and member of a school suspension board to groom minor student, Brennan Nicholson, and develop a sexual relationship with him.

12. Brennan Nicholson was under the age of sixteen when Delgadillo began grooming him.

13. Delgadillo received access to Brennan through his official duties with the Caldwell Police.

14. As one of his official duties with the Caldwell Police, Delgadillo participated in a Vallivue School expulsion hearing, which gave him access to troubled youths, such as the plaintiff. Brennan appeared before the expulsion panel while Delgadillo was a member of the panel.

15. After the suspension hearing, while still on Caldwell School District Property and while in his Caldwell Police uniform, Delgadillo approached Brennan's mother and offered to mentor her son.

16. Brennan's mother trusted Delgadillo because he was a police officer and an SRO assigned to work with children. She agreed to the mentorship.

17. Delgadillo groomed Brennan on a daily basis. Delgadillo would pick Brennan up from Brennan's home and would take him jogging, back to Delgadillo's house, and even on ride-alongs in his police cruiser.

18. Delgadillo began having Brennan spend the night with him at Delgadillo's house and in Delgadillo's bed.

19. Delgadillo repeatedly fondled Brennan in a sexual manner.

20. Delgadillo repeatedly engaged in intercourse with Brennan while Brennan was a minor.

21. Brennan was a minor child while this abuse was occurring.

22. The sexual abuse occurred dozens of times over a period of months.

23. Brennan even pretended to be asleep to avoid confrontations with Delgadillo, due to fear for his safety, as Delgadillo was an officer of the law.

24. Delgadillo told Brennan that he had ties to gangs, intimidating Brennan into remaining silent.

25. Brennan feared the Caldwell Police would not protect him.

26. Upon information and belief, Mike Larimer (“Larimer”) was a sergeant with the Caldwell Police and had supervisory authority over Delgadillo.

27. Delgadillo lived with Larimer during the time that he was sexually assaulting Brennan Nicholson.

28. Larimer was aware of the inappropriate relationship between Delgadillo and Brennan but allowed it to continue.

29. Larimer was, or should have been, aware that Brennan Nicholson was in danger.

30. Larimer was, or should have been, aware that Brennan Nicholson was being molested.

31. Larimer was, or should have been, aware that Delgadillo was using his position to solicit and obtain sex from a minor child.

32. Larimer did not intervene or report Officer Delgadillo’s actions, despite being his supervising officer.

33. Larimer witnessed Delgadillo rubbing oils over Brennan’s body and did nothing to protect Brennan Nicholson.

34. Larimer left Brennan Nicholson to be sexually assaulted by an officer under his supervision.

35. Brennan did not report Delgadillo because was in fear he would be retaliated against if he did not allow the abuse, because Delgadillo and his roommate, Larimer, were “the police.”

36. Brennan Nicholson was in fear for his safety.

37. Intimidation and coercion was used to force Brennan Nicholson into compliance.

38. Brennan Nicholson was physically injured, and he felt filthy and humiliated.

39. Brennan Nicholson felt scared, sick and confused.

40. Brennan continues to suffer from the effects of the abuse.

41. The sexual abuse by Delgadillo against Brennan Nicholson lasted several months.

42. Defendant Larimer was responsible for supervising Delgadillo and despite witnessing sexually inappropriate behavior by Delgadillo towards Brennan Nicholson, he failed to intervene, failed to stop the abuse, and failed to protect Brennan Nicholson thus causing further harm.

43. At all times relevant to the complaint, each of the defendants was acting under color of state law.

44. Larimer remains employed by the Caldwell Police as of the date of the filing of this Complaint.

45. Brennan went to the Idaho State Police to report the abuse and the Idaho Attorney General's Office brought charges against Delgadillo for Lewd Conduct with a Child Under 16.

46. Upon the filing of charges, Delgadillo resigned from the Caldwell Police.

47. On DATE 2011, in case CR-2009-0010030, Delgadillo was convicted of Felony Injury to Child.

48. At all times, Brennan Nicholson was in reasonable fear for his safety, as he was a child and Delgadillo was a police officer.

49. Each of the events giving rise to this Complaint occurred in Canyon County, Idaho.

V. CLAIM FOR RELIEF

50. Plaintiff repeat and re-allege each of the allegations set forth in the preceding paragraphs as if set forth in full herein.

51. A minor child, Brennan Nicholson, was sexually assaulted by Delgadillo in a malicious or sadistic manner for the purpose of causing harm, and in a manner that would shock the conscience.

52. Sergeant Larimer, Delgadillo's supervising officer, knew, or should have known, that there was a danger that Delgadillo was abusing Brennan, had the authority to take steps to prevent the conduct, yet failed to act.

53. Larimer either acquiesced in, or was deliberately, recklessly or callously indifferent to, Delgadillo's abuse of Brennan, and Larimer's inaction allowed the abuse to continue.

54. Larimer failed to train, supervise or control Delgadillo, resulting in the abuse of Brennan continuing.

55. At all times relevant to the Complaint, the conduct of the Defendants was intentional, willful, and reckless with respect to Plaintiff's rights under federal law.

56. Does I-X either acquiesced in, or were deliberately, recklessly or callously indifferent to, Delgadillo's abuse of Brennan, and their inaction allowed the abuse to continue.

57. Defendants' deliberate indifference proximately caused damages to Plaintiff's including, but not limited to: injury, pain, sexual humiliation, and emotional and mental distress.

VI. JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 38, Plaintiff demands a jury trial on all the issues so triable.

VII. REQUESTED RELIEF

Wherefore, plaintiff respectfully requests:

- A. Compensatory damages, including, but not limited to, actual losses, pain and suffering, and mental anguish and humiliation;
- B. Punitive damages;
- C. Reasonable attorneys' fees and costs; as provided under 42 U.S.C. § 1988, Idaho Rule of Civil Procedure 54(d), and other applicable statutes; and
- D. Such other and further relief as may appear just and appropriate.

DATED this 13th day of September 2012.

McKENZIE LAW OFFICES, PLLC

/s/ Curtis D. McKenzie
Attorney for Brennan Nicholson.