FILED: April 13, 2021

UNITED STATES COURT OF APPEALSFOR THE FOURTH CIRCUIT

No. 19-2417 (3:18-cv-00402-HEH)

DR. MARLACRAWFORD, Advocate/Analyst

Plaintiff - Appellant

and

KANDISE LUCAS, Lead Advocate; TONI HUNTER-DA VIS, Parent

Plaintiffs

v.

HENRICO COUNTY PUBLIC SCHOOL BOARD; PATRICK KINLAW, Superintendent;KIRK EGGLESTON, Principal CTE; HENRICO COUNTY POLICE DEPARTMENT; HUMBERTO CARDOUNEL, Police Chief; SERGEANT CROOK, Police Officer; SHANNON TAYLOR, Henrico County Commonwealth District Attorney; TANIA KREGAR, Assistant District Attorney; L. NEIL STEVERSON, District Court Judge

Defendants - Appellees

ORDER

The petition for rehearing en bane was circulated to the

full court. No judge requesteda poll under Fed R. App. P. 35.

The court denies the petition for rehearing en bane.

For the Court

Isl Patricia S. Connor, Clerk

FILED: February 5, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2418
(3:l 8-cv-00402-HEH)

KANDISE LUCAS, Lead Advocate; TONI HUNTER-DAVIS, Parent

Plaintiffs - Appellants

and

DR. MARLA CRAWFORD, Advocate/AnalystPlaintiff

V.

HENRICO COUNTY PUBLIC SCHOOL BOARD; PATRICK KINLAW, Superintendent; KIRK EGGLESTON, Principal CTE; HENRICO COUNTY POLICE DEPARTMENT; HUMBERTO CARDOUNEL, Police Chief; SERGEANT CROOK, Police Officer; SHANNON TAYLOR, Henrico County Commonwealth District Attorney; TANIA KREGAR, Assistant District Attorney; L. NEIL STEVERSON, District Court Judge

Defendants - Appellees

JUDGMENT

In accordance with the decision of this court, the judgment of the district

court is affirmed.

This judgment shall take effect upon issuance of this court's mandate inaccordance with Fed. R. App. P. 41.

ls/PATRICIA S. CONNOR. CLERK

FILED: February 5, 2021

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 19-2417
(3:18-cv-00402-HEH)

DR. MARLA CRAWFORD, Advocate/Analyst

Plaintiff - Appellant

and

KANDISE LUCAS, Lead Advocate; TONI HUNTER-DA VIS, Parent

Plaintiffs

V.

HENRICO COUNTY PUBLIC SCHOOL BOARD; PATRICK KINLAW, Superintendent; KIRK EGGLESTON, Principal CTE; HENRICO COUNTY POLICE DEPARTMENT; HUMBERTO CARDOUNEL, Police Chief; SERGEANT CROOK, Police Officer; SHANNON TAYLOR, Henrico County Commonwealth District Attorney; TANIA KREGAR, Assistant District Attorney; L. NEIL STEVERSON, District Court Judge

Defendants - Appellees

JUDGMENT

In accordance with the decision of this court, the judgment of the district

court is affirmed.

This judgment shall take effect upon issuance of this court's mandate inaccordance with Fed. R. App. P. 41.

Isl PATRICIA S. CONNOR, CLERK

FILED: April 21, 2021

UNITED STATES COURT OF APPEALSFOR THE FOURTH CIRCUIT

No. 19-2417
(3:18-cv-00402-HEH)

DR. MARLA CRAWFORD, Advocate/AnalystPlaintiff - Appellant

and

KANDISE LUCAS, Lead Advocate; TONI HUNTER-DAVIS, Parent

Plaintiffs

v.

HENRICO COUNTY PUBLIC SCHOOL BOARD; PATRICK KINLAW, Superintendent; KIRK EGGLESTON, Principal CTE; HENRICO COUNTY POLICE DEPARTMENT; HUMBERTO CARDOUNEL, Police Chief; SERGEANT CROOK, Police Officer; SHANNON TAYLOR, Henrico County Commonwealth District Attorney; TANIA KREGAR, Assistant District Attorney; L. NEIL STEVERSON, District Court Judge

Defendants - Appellees

MANDATE

The judgment of this court, entered February 5, 2021, takes effect today.

This constitutes the formal mandate of this court issued pursuant to Rule 4l(a) of theFederal Rules of Appellate Procedure.

ls/Patricia S. Connor, Clerk

UNPUBLISHED

UNITED STATES COURT OF APPEALSFOR THE FOURTH CIRCUIT

No. 19-2417

DR. MARLA CRAWFORD, Advocate/Analyst,

Plaintiff - Appellant,

and

KANDISE LUCAS, Lead Advocate; TONI HUNTER-DAVIS, Parent,

Plaintiffs,

v.

HENRICO COUNTY PUBLIC SCHOOL BOARD; PATRICK KINLAW, Superintendent; KIRK EGGLESTON, Principal CTE; HENRICO COUNTY POLICE DEPARTMENT; HUMBERTO CARDOUNEL, Police Chief; SERGEANT CROOK, Police Officer; SHANNON TAYLOR, Henrico County Commonwealth District Attorney; TANIA KREGAR, Assistant District Attorney; L. NEIL STEVERSON, District Court Judge,

Defendants - Appellees.

Appeal from the United States District Court for the Eastern District of Virginia, atRichmond. Henry E. Hudson, Senior District Judge. (3:18-cv-00402-HEH)

Submitted: October 30, 2020 Decided: February 5, 2021

Before GREGORY, Chief Judge, HARRIS, Circuit Judge, and TRAXLER, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Marla Crawford, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.

PERCURIAM:

Dr. Marla Crawford, along with Kandise Lucas and Toni Hunter-Davis, filed a civil complaint asserting federal statutory claims, federal civil rights claims, and state law claims against the Henrico County Public School Board, Superintendent Patrick Kinlaw, Principal Kirk Eggleston, the Henrico County Police Department, Henrico County Police Chief Humberto Cardounel, Sergeant Crook, Henrico County Commonwealth's Attorney Shannon Taylor, Assistant Commonwealth's Attorney Tania Kregar, and Henrico County District Court Judge L. Neil Steverson. After the district court dismissed the complaint in its entirety, we affinned the dismissal of the federal statutory claims as to all defendants and the federal civil rights claims against Taylor, Kregar, and Steverson. We vacated the dismissal of the civil rights claims as to the other Defendants and the dismissal of the state law claims, and remanded to the district court for further proceedings.

On remand, Defendants renewed their motions to dismiss all of the claims. The district court granted those motions and dismissed the remaining federal claims with prejudice. Having dismissed the federal claims, the district court declined to exercise supplemental jurisdiction over the state law claims. *See* **28** U.S.C. §) 367(c)(3). The district court also denied as moot Crawford's motion to sever her claims from those of

Lucas and Hunter-Davis. We have reviewed the record and find no reversible error. We therefore affirm for the reasons stated by the district court. *Lucas v. Henrico Cnty. Sch. Bd.*, No. 3:18-cv-00402-HEH (E.D. Va. Nov. 6, 2019). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

VIRGINIA:

IN THE GENERAL DISTRICT COURT OF THE COUNTY OF HENRICO

HENRICO COUNTY PUBLIC SCHOOLS, Plaintiff	:
vs.	:
MARLA CRAWFORD Defendant	:

Complete transcript of the testimony and matters, in the above, when heard on April 25, 2018, before the Honorable L. Neil Steverson, Judge.

CRANE-SNEAD & ASSOCIATES, INC.
4914 Fitzhugh Avenue - Suite 203
Richmond, Virginia 23230
Tel. No. (804) 355-4335

APPEARANCES:

Susan B. Williams
Assistant Attorney General
City of Richmond
Richmond, Virginia
Counsel on behalf of the Department of Education

Marla Crawford, defendant, pro se

I N D E X

EXHIBITS

NONE

NOTE: The hearing was called to begin at 9:50.

THE COURT: I have a motion to quash from the Attorney General's Office. Two subpoenas?

MS. WILLIAMS: Actually three, Your Honor. There was one that came in a day later.

THE COURT: What would you like to tell me?

THE DEFENDANT: As you mentioned, there are three subpoenas that we would like to have quashed. I represent the Department of Education. In all three instances, the folks who have been subpoenaed have absolutely no knowledge of the alleged criminal trespassing matter at hand. They weren't present. They have no knowledge.

THE COURT: Ms. Crawford, what would you like to say?

THE DEFENDANT:

MS. CRAWFORD: Good morning, Your Honor. These individuals -- First, let me correct what was said. The subpoenas were submitted and delivered on April 12th.

THE COURT: I'm interested in --

THE DEFENDANT: Okay. What's happened is the individuals that she's trying to subpoena, because I've been charged with trespassing, these individuals were working collaboratively with me via phone that has been recorded. And they were aware of my presence in the school, and that I had a Bona fide legal right under IDA and 504 Section Rehabilitation Act to be there in the school. So they can establish that I had a legal business there.

THE COURT: Here's the law of trespassing. So listen carefully.

THE DEFENDANT: Mmm-hmm.

THE COURT: The law of trespassing is this, were you on school property, one? Two, did someone in authority ask you to leave the school property?

THE DEFENDANT: No one ever asked me.

THE COURT: Two, did someone in authority ask you to leave school property? Three, did you leave the school property when it was requested by the person of authority? That is all we are going to talk about. We are not going to talk about any other complaints you might have against the school system, complaints against the Department of Education, of Education anything except those three issues. That's it.

THE DEFENDANT: I understand, Your Honor. I understand, but they can establish--

THE COURT: Were these people present?

THE DEFENDANT: They were on the phone with me to know I was there.

THE COURT: Were they present at the time this took place?

THE DEFENDANT: They were not in the building. They were on the phone with me, and they also talked to myself and the building principal together.

THE COURT: Well, this issue came up once before in another case, and I granted the motion to quash. I am going to grant this as well.

THE DEFENDANT: Well, I'm gonna ask, Your Honor, that you recuse yourself from this case because I'm concerned of the impartiality or partiality that exists.

THE COURT: Have I ever met you before? Have I ever met you before?

THE DEFENDANT: Yes, you have.

THE COURT: Where have I met you before?

THE DEFENDANT: You met me the week after this case happened.

THE COURT: Oh, for arraignment.

THE DEFENDANT: For arraignment, but also there was another case, a --

THE COURT: Well, I'm denying the motion.

THE DEFENDANT: Okay. But I want it to be on the record that I'm concerned about that, because these people can establish that I had a legal right there.

THE COURT: Deny your motion. Grant your motion to quash.

Thank you.

CONCLUDED.

CERTIFICATE OF COURT REPORTER

I, Sheryl S. Rainey, hereby certify that I, having been duly sworn, was the court reporter in the General District Court of the County of Henrico, on April 25, 2018, at the time of the hearing herein. I further certify that the foregoing transcript is a true and accurate record of the testimony and other incidents of the hearing herein, to the best of my ability. Given under my hand this 8th day of May, 2018.

Sheryl S. Rainey
Court Reporter

My Commission Expires: April 30, 2022
#260655

VIRGINIA:

IN THE CIRCUIT COURT FOR THE COUNTY OF HENRICO

COMMONWEAT
H OF VIRGINIA,
Plaintiff, :

vs. : Case No. CR18-
: 1651-00M

KANDISE N. LUCAS, :
Defendant.

Transcript of the Judge's ruling in the above-styled matter, when heard on September 26, 2018 before the Honorable John Marshall, Judge.

CRANE-SNEAD & ASSOCIATES, INC.
4914 Fitzugh Avenue, Suite 203
Richmond, Virginia 23230
Tel. No. (804)355-4335

APPEARANCES:

Nate Green, Esquire
Special Prosecutor, Commonwealth Attorney
5201 Monticello Avenue, Suit 4
Williamsburg, Virginia 23188-8213
Counsel for the Commonwealth

J. Robinson, Esquire

Counsel for the Defendant

THE COURT: Overall, we begin on January 30th The request for records in concern over Morocco being unenrolled was based on the Virginia Department of Education decision by the state superintendent. At some time during the 30th, because it wasn't at the school that day because they started, Crooke testified it was all about getting records. And at some time during that day, a decision was made and handed down to Principal Eggleston that indeed Morocco would be unenrolled.

Well go to the 31st. All three Defendant's knew that Morocco had been unenrolled because Ms. Lucas testified she had filed a due process claim and emailed everyone the day before and the due process claim was based on him being removed or unenrolled. So the

purpose on January 31st as Sergeant Crooke testified to about getting the records had changed.

So the goal on the 31st was to take Morocco into school and take him into class despite the state superintendent's decision. This intent was shown by the direct action to take Morocco to school with no discussion as had taken place the day before on the 30th. It was taken directly to class. This case comes down to the parties not being happy with the state superintendent's decision and trying to force Principal Eggleston to accept their authority over that of the state superintendent. No authority other than the state superintendent and the Henrico school officials had given Principal Eggleston any other direction other than Morocco was unenrolled and he was

bound to follow it.

From the outset, my handwriting is terrible. From the outset, it could have been predicted that a confrontation was contemplated by attempting to take Morocco to class with all the parties' knowledge of the state superintendent's decision. Mr. Eggleston on January the 3rd had even assisted to get Morocco an appeal that he didn't have at that point and Mr. Eggleston, based on the videos that the Court has seen, conducted himself in an acceptable manner in light of the behavior exhibited towards him on the video.

Now, we'll go to Ms. Davis first. Ms. Davis as Morocco's mother had a good faith basis to be at the school. Because obviously she was concerned about what had now become the decision that was going to be

enforced to unenroll Morocco. The evidence shows that Ms. Davis was following the advice of Dr. Crawford and Ms. Lucas in trying to bring Morocco to school. The evidence shows that Ms. Davis had little role in the interactions with Mr. Eggleston in her willingness to talk to Channel 12 at Ms. Lucas' request does not rise to the level of her being in concert of action with Ms. Lucas' stated intention to stage a sit in in civil disobedience. Her behavior is not what has prompted, is not what disrupted the school. The evidence is not clear that Ms. Davis was told to leave.

The Court cannot find beyond a reasonable doubt therefore, that Ms. Davis trespassed after being told by Mr. Eggleston to leave.

Dr. Crawford. The Court has to accept Dr. Crawford's statements as to the law of the

federal regulations since none of those regulations were introduced into evidence. The Court has to rely on her knowledge and that based on that knowledge, she had a good faith basis to believe that Morocco had a right to be at school and as the advisor to Ms. Davis, she had a good faith basis to be there with her.

However, Dr. Crawford also knew of the decision that had been made to unenroll Morocco but not by Principal Eggleston but the state superintendent and the schools. Her role by the evidence was to try and get someone at the Department of Education to advise Principal Eggleston that

despite the superintendent's decision, Morocco should be in school. She could have done this anywhere. It did not have to be at the school.

Despite being at the school

approximately four and a half hours, she was never successful in getting someone at the state department of education to tell Principal Eggleston what she wanted them to tell him. But she would expect Principal Eggleston to ignore the state superintendent and the school system decision and rely on her. That is not reasonable.

The Court finds from the evidence that Dr. Crawford's behavior did not cause a disturbance at the school.

The Court also finds that it isn't clear that Dr. Crawford was told to leave and therefore, the Court has to find Dr. Crawford not guilty.

Kandise Lucas. The conduct exhibited by Ms. Lucas on the video created a situation that, again, was expected based on the prior

knowledge that Morocco had been unenrolled by the state superintendent.

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The conduct and situation is something that Ms. Davis testified she did not want Morocco to see and that is why he was taken to the car. The Court finds it was not okay for the other five- to ten-year-old students to witness the behavior the Court has seen on the video. Kids were seen on the video and Ms. Lucas testified that kids were walking by.

The librarian, not a party to the situation, saw the conduct exhibited on the video and called for a lockdown. That lockdown remained in effect based on the behavior of Ms. Lucas and remained while she and the other parties were there. Important to note is where the behavior on

the video took place. Commonwealth Exhibit 5 shows the foyer area where the

Defendants were and that is directly next to the library. From the map, it shows the area is next to the office and access to the gym is through the same hallway that foyer is in.

Based on that, for almost the whole day, the kids couldn't leave the classrooms for gym because of where it was located and the disturbance that had occurred and the library was shut down because the access to the library was directly next to the foyer and that's why the librarian had called for the doctor.

Pursuant to Commonwealth Exhibit 6, regulation R-11-08-001, these disruptions meet the requirements of A4. And pursuant to the language in Pleasants v. Commonwealth dealing with protests at

school, the Court said when the protest demonstration became unduly disruptive of the
educational process and to good order and

discipline in the school, it became not only the right but the duty of the principal to take reasonable measures to restore order so that the educational process might continue. And in that case, based on that, the good faith right to be there was overcome. Requirement A5 is met by the comments Ms. Lucas made in the video toward Ms. Christian.

Ms. Lucas was told to leave the property repeatedly. Her answer is similar, one of her answers was similar to the answer in the Rayyan's case that was cited by Counsel that said in the Court of Appeal case said arrest me. She also said this is now civil disobedience in a city.

Based on the disruption at the school caused by Ms. Lucas, the repeated request for her to leave and her statements that any claim of right she had was lost. For that reason, I find her guilty in the trial.

JUDGE'S RULING CONCLUDED.

STATE OF VIRGINIA,
COUNTY OF HENRICO, to-wit:

I, MEDFORD W. HOWARD, Registered Professional Reporter and Notary Public for the State of Virginia at large, do hereby certify that I was the Court Reporter who transcribed the recorded Judge's ruling of **COMMONWEALTH OF VIRGINIA v. KANDISE N. LUCAS,** heard in the Circuit Court for the County of Henrico. **I have transcribed the recording to the best of my ability to understand the proceedings herein**.

I further certify that the foregoing transcript, pages numbered 1 through 8 is a true and accurate record of the

proceedings herein reported, **to the best of my ability to understand the audio recording**.

Given under my hand this 9th day of October, 2018.

Medford W. Howard
Registered Professional Reporter
Notary Public for the State of Virginia at Large
Notary Registration Number: 224566

My Commission Expires: October 31, 2018.

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

KANDISE LUCAS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 3:18cv402-HEH
	)	
HENRICO COUNTY PUBLIC SCHOOL BOARD, et al.,	)	
SCHOOL BOARD, et al.,	)	
	)	
Defendants.	)	

This matter is before the Court on Defendants' Renewed Motions to Dismiss (ECF Nos. 61, 63, 66). For the reasons stated in the accompanying Memorandum Opinion, the Court GRANTS Defendants'-Henrico County Public School Board, Superintendent Patrick Kinlaw, Principal Kirk Eggleston, Henrico County Police Department, Police Chief Humberto Cardounel, and Police Sergeant P.F. Crook-Renewed Motion to Dismiss as to the federal civil rights claims in Count II (ECF No. 61). Because the Court declines to exercise supplemental jurisdiction over Plaintiffs' state law claims ("Counts IV-VI"), the remaining arguments in the above-mentioned Motion (ECF No. 61) are DENIED as moot. Similarly, Defendants'-Shannon Taylor, Tania Kregar, and Judge L. Neil Steverson-Renewed Motions to Dismiss (ECF Nos. 63, 66) are DENIED as moot.

Finally, Plaintiff Marla Crawford's Motion to Sever Plaintiff (ECF No. 72) is DENIED as moot.

This case shall be DISMISSED and is CLOSED. Should Plaintiffs wish to appeal, written notice of appeal must be filed with the Clerk of Court within thirty (30) days of the date of entry hereof. Failure to file a notice of appeal within the stated period may result in the loss of the right to appeal.

The Clerk is directed to send a copy of this Order to all counsel of record and to prose Plaintiffs Kandise Lucas, Marla Crawford, and Toni Hunter-Davis.

It is so ORDERED.

/s/
Henry E. Hudson
Senior United States District Judge

Date: of. C, 2019
Richmond, Virginia

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

KANDISE LUCAS, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 3:18cv402-HEH
	)	
HENRICO COUNTY PUBLIC SCHOOL BOARD, et al.,	)	
	)	
Defendants	)	

MEMORANDUM OPINION
(Defendants' Renewed Motions to Dismiss)

This matter is before the Court on remand from the United States Court of Appeals for the Fourth Circuit (ECF No. 59).[1] On September 19, 2018, this Court issued a Memorandum Opinion, dismissing the entirety of Plaintiffs'-Kandise Lucas, Marla Crawford, and Toni Hunter-Davis ("Plaintiffs")-Complaint on various grounds (ECF No. 48). On April 12, 2019, the Fourth Circuit vacated and remanded this Court's dismissal of Plaintiffs' federal civil rights claims as to Defendants Henrico County Public School Board ("HCPS Board"), Superintendent Patrick Kinlaw ("Kinlaw"), Principal Kirk Eggleston ("Eggleston"), Henrico County Police Department ("HCPD"), Police Chief Humberto Cardounel ("Cardounel"), and Police Sergeant P.F. Crook ("Crook").[2]

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[1] Because the Plaintiffs in this case are prose, this Memorandum Opinion is lengthier and contains more explanation than is customary for this Court.

[2] Defendants HCPS Board and HCPD contend that the Complaint misstates their names, which are, respectively, "County School Board of Henrico County" and "Henrico County Police Division." (See Renewed Mot. to Dismiss for Failure to State a Claim, ECF No. 62.) For consistency, the Court will use the parties' names as stated in the Complaint. Because this

The Fourth Circuit also vacated and remanded the dismissal of Plaintiffs' state law claims.

Following the Fourth Circuit's remand, these Defendants filed their Renewed Motion to Dismiss for Failure to State a Claim on May 20, 2019 (ECF No. 61). Plaintiffs filed their Response on June 7, 2019 (ECF No. 69).[3] The Court will dispense with oral argument because the facts and legal contentions have been adequately presented to the Court. See E.D. Va. Local Civ. R. 7(J).

I. BACKGROUND

On June 11, 2018, Plaintiffs filed a seven-count Complaint with this Court against nine Defendants, alleging various violations of federal and state law. [4] (See Compl., ECF No. I.) This Court dismissed the entirety of Plaintiffs' Complaint by Memorandum Opinion. (ECF No. 48.) On Plaintiffs' appeal, the Fourth Circuit affirmed the majority of this Court's ruling dismissing all of Plaintiffs' claims. However, the Fourth Circuit vacated and remanded Plaintiffs' federal civil rights claims as to Defendants HCPS Board, Kinlaw, Eggleston, HCPD, Cardounel, and Crook, under Plaintiffs' First Second

---

Memorandum Opinion largely focuses on only Defendants Kinlaw, Eggleston, Cardounel, and Crook, where appropriate, these Defendants collectively will simply be referred to as "Defendants."

[3] On August 22, 2019, Plaintiff Crawford also filed a Motion to Sever (ECF No. 72), seeking to sever her claim.

[4] For a more extensive summation of the facts, see this Court's first Memorandum Opinion in this case. (ECF No. 48.)

Cause of Action ("Count 11").[5] This Court had dismissed those claims on the grounds that it lacked subject matter jurisdiction under the Rooker-Feldman[6] doctrine, or in the alternative, that it was required to abstain under the Younger[7] doctrine. The Fourth Circuit disagreed, and remanded the federal civil rights claims to this Court for a determination that was consistent with the Fourth Circuit's opinion. However, the Fourth Circuit upheld the dismissal of the federal civil rights claims as to Defendants Shannon Taylor ("Taylor"), Tania Kregar ("Kregar"), and Judge L. Neil Steverson ("Steverson"), as those claims are barred by prosecutorial and judicial immunity. Finally, because this Court dismissed the state law claims by declining to exercise supplemental jurisdiction in the absence of any remaining federal cause of action, the Fourth Circuit remanded those claims as well.

Accordingly, this Court will review Plaintiffs' Complaint, along with the accompanying Renewed Motions to Dismiss,[8] as to only the federal civil rights claims

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[5] The Complaint contains two counts that are both labeled as Plaintiffs' "Second Cause of Action." (Compl. at 29, 34.) In its previous Memorandum Opinion, this Court referred to the First Second Cause of Action as Count II. For the sake of consistency with its prior opinion, this Court will continue to refer to this cause of action as Count II.

[6] D.C. Ct. of Appeals v. Feldman, 460 U.S. 462 (1983); Rooker v. Fid. Tr. Co., 263 U.S. 413 (1923).

[7] Younger v. Harris, 401 U.S. 37 (1971).

[8] Defendants Taylor, Kregar, and Steverson submitted Renewed Motions to Dismiss (ECF Nos. 63, 66), re-asserting their defenses of sovereign and absolute immunity as to the state law claims alleged in Plaintiffs' Complaint. However, this Court need not address these defenses for reasons discussed in Section III.F of this Memorandum Opinion.

alleged in Count II-specifically 42 U.S.C. §§ 1983, 1985, and 1986[9]- and as alleged against only Defendants HCPS Board, Kinlaw, Eggleston, HCPD, Cardounel, and Crook, and the state law claims alleged in the Fourth, Fifth, and Sixth Causes of Action ("Counts IV-VI").

For the reasons stated, the Court will grant Defendants' Renewed Motion to Dismiss (ECF No. 61) as to the remaining claims in Count II'under Fed. R. Civ. P. 12(b)(6), and will decline to exercise supplemental jurisdiction as to Counts IV-VI. Accordingly, Plaintiffs' Complaint will be dismissed.

II. STANDARD OF REVIEW

"A motion to dismiss under Rule l 2(b)(6) tests the sufficiency of a complaint; importantly, it does not resolve contests surrounding the facts, the merits of a claim, or the applicability of defenses." Republican Party ofN.C. v. Martin, 980 F.2d 943,952 (4th Cir. 1992) (citation omitted). The Federal Rules of Civil Procedure "require[] only 'a short and plain statement of the claim showing that the pleader is entitled to relief,' in order to 'give the defendant fair notice of what the ... claim is and the grounds upon which it rests.'" Bell At/. Corp. v. Twombly, 550 U.S. 544, 555 (2007) (quoting Conley v. Gibson, 355 U.S. 41, 47 (1957)). A complaint need not assert "detailed factual allegations," but must contain "more than labels and conclusions" or a "formulaic recitation of the elements of a cause of action." Id. at 555 (citations omitted). Thus, the

[9] This Court need only address the federal civil rights allegations contained in Count II, as the Fourth Circuit remanded only those claims back to this Court for further consideration.

"[f]actual allegations must be enough to raise a right to relief above the speculative level" to one that is "plausible on its face," rather than merely "conceivable." Id. at 555, 570.

"[O]nly a complaint that states a plausible claim for relief survives a motion to dismiss." Ashcroft v. Iqbal, 556 U.S. 662,679 (2009) (citing.Twombly, 550 U.S. at 556). In considering such a motion, a plaintiff's well-pleaded allegations are taken as true, and the complaint is viewed in the light most favorable to the plaintiff. T.G. Slater & Son, Inc. v. Donald P. & Patricia A. Brennan LLC, 385 F.3d 836,841 (4th Cir. 2004) (citation omitted). Legal conclusions enjoy no such deference. Iqbal, 556 U.S. at 678.

The Court also acknowledges that pro se complaints are afforded a liberal construction. Laber v. Harvey, 438 F.3d 404, 413 n.3 (4th Cir. 2006). The Court, however, need not attempt "to discern the unexpressed intent of the plaintiff." Id. Nor does the requirement of liberal construction excuse a clear failure in the pleading to allege a federally cognizable claim. See Weller v. Dep't of Soc. Servs., 901 F.2d 387, 390-91 (4th Cir. 1990). As the Fourth Circuit articulated in Beaudett v. City of Hampton,

"[p]rinciples requiring generous construction of pro se complaints are not ... without limits." 775 F.2d 1274, 1278 (4th Cir. 1985). "Though [prose] litigants cannot, of course, be expected to frame legal issues with the clarity and precision ideally evident in the work of those trained in law, neither can district courts be required to conjure up and decide issues never fairly presented to them." Id. at 1276.

While a motion to dismiss tests the sufficiency of a complaint, courts may consider documents that are either "explicitly incorporated into the complaint by reference" or "those attached to the complaint as exhibits." Goines v. Valley Cmty. Servs.

Bd., 822 F.3d 159, 165-66 (4th Cir. 2016). "[I]n the event of conflict between the bare allegations of the complaint and any exhibit attached ... , the exhibit prevails." Id. at 166 (quoting Fayetteville Inv'rs v. Commercial Builders, Inc., 936 F.2d 1462, 1465 (4th Cir. 1991). This is based on "the presumption that the plaintiff, by basing his claim on the attached document, has adopted as true the contents of that document." Id. at 167.

However, "before treating the contents of an attached or incorporated document as true, the district court should consider the nature of the document and why the plaintiff attached it," and it should consider whether plaintiff relied on the attachment for its truthfulness. See id. at 167-69; see also Wallace v. Baylouny, No. 1:16-cv-0047, 2016 WL 3059996, at *4 (E.D. Va. May 31, 2016).

III. DISCUSSION

A. Defendant HCPD is an Improper Party

Defendant HCPD is an improper party in this action, as HCPD is not an entity capable of being sued. State law determines whether a governmental body has the capacity to be sued in federal court. Fed. R. Civ. P. 17(b). "In Virginia, departments of municipal governments are not capable of being sued in their own names." Allmondv. Sec. 8 Dep't of Hous., No. 03-894-A, 2003 WL 23784041, at *2 (E.D. Va. Sept. 25, 2003). Notably, several courts in this Circuit have dismissed claims against police departments in Virginia, holding that they lack the capacity to be sued. See, e.g., Harrison v. Prince William Cty. Police Dept., 640 F. Supp. 2d 688, 711 (E.D. Va. 2009); Muniz v. Fairfax Cty. Police Dept., No. 1:05CV466, 2005 WL 1838326, at *2 (E.D. Va. Aug. 2, 2005); Estate of Harris v. Arlington Cty., No 99-cv1144, 2000 WL 34477900, at

*3 (E.D. Va. Jan. 14, 2000) (granting summary judgment in favor of the Arlington County Police Department as to plaintiff's§§ 1981, 1983, and 1985 claims based on its finding "that the police department is not an entity capable of being sued"); Hearn v. Hudson, 549 F. Supp. 949,952 n.l (W.D. Va. 1982) ("It appears that nothing in Virginia law recognizes municipal police departments as entities separate from their respective municipalities. Nor does anything in Virginia law support a direct action against a police department as an entity separate from the municipality itself.").

This Court similarly finds that the claims against HCPD must be dismissed because HCPD does not exist as a separate legal entity from Henrico County and is not capable of being sued.

Even if Plaintiffs attempted to bring suit against Henrico County, instead of HCPD, such attempt would be futile under Monell v. Dep 't of Soc. Servs., 436 U.S. 658 (1978).[10] In Monell, the Supreme Court held that vicarious liability, under a theory of respondeat superior, is not available for claims brought under§ 1983. 436 U.S. at 691.

Because it appears that Plaintiffs are only bringing suit against HCPD due to alleged actions of its officers-that is, a vicarious liability claim-any suit against Henrico County for such alleged actions would be foreclosed under Monell. See id. at 691, 694 ("[A] local government may not be sued under§ 1983 for an injury inflicted solely by its employees or agents.").

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[10] Based on the limited factual allegations in the Complaint, it appears that Plaintiffs are seeking to hold Defendant HCPD liable under § 1983, rather than §§ 1985 and 1986. However, if Plaintiffs are attempting to hold Defendant HCPD liable under §§ 1985 and 1986, those claims must also be dismissed for reasons discussed infra.

Therefore, the claims against Defendant HCPD will be dismissed.

B The Claims Against Defendant HCPS Board Fail Under Monell

Plaintiffs have failed to sufficiently allege facts in their Complaint that Defendant HCPS Board implemented and executed an unlawful policy or custom that was responsible for Plaintiffs' alleged deprivation of constitutional rights.

In Monell, the Supreme Court held that municipalities and local government units, like school boards, can be sued directly under § 1983, where "the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers." Id. at 690. That is, "[u]nder Monell, a municipality's liability arises only where the constitutionally offensive actions of employees are taken in furtherance of some municipal policy or custom. Thus, [plaintiffs are] obliged to identify a municipal policy or custom that caused their injury." Walker v. Prince George's Cty., 575 F.3d 426,431 (4th Cir. 2009) (internal citations and quotations omitted). Furthermore, the plaintiff "must demonstrate a direct causal link between the municipal action and the deprivation of federal rights." Bd. ofCty. Comm 'rs v. Brown, 520 U.S. 397,404 (1997).

In this case, it appears that Plaintiffs have made only a single allegation against Defendant HCPS Board in Count II. (Compl. 107 ("Plaintiffs allege that Police Chief Cardounel and Sergeant Crooks failed to prevent defendant HCPS from obtaining an unenforceable and unlawful summons knowing that no violation had occurred in violation of the parties [sic] Fourth and Fourteenth Amendm nt rights under the United States Constitution.").) Viewing the Complaint in the light most favorable to Plaintiffs,

Plaintiffs have failed to identify a School Board policy, custom, or practice that caused their injuries. See Walker, 575 F.3d at 431. As such, Plaintiffs have failed to plead a viable claim under Monell against Defendant HCPS Board.

Notably, it seems that Plaintiffs have named Defendant HCPS Board as a defendant in their Complaint in order to hold the School Board liable for the alleged misconduct of Defendants Kinlaw and Eggleston. 11 However, as the Court previously addressed above, vicarious liability is not available for § 1983 claims. See Monell, 436
U.S. at 691.

As such, the claims against Defendant HCPS Board will be dismissed.

C. Plaintiffs Fail to State a § 1983 Claim

Plaintiffs have failed to state a claim against Defendants for civil conspiracy under § 1983. Notably, it is unclear from Plaintiff's Complaint-which governs this Court's analysis-which counts are alleged violations of§ 1983, and which ones are instead alleged violations of§ 1985. However, because Plaintiffs have named both§§ 1983 and 1985 in Count II, the Court will address both statutes.

To state a claim for conspiracy under § 1983, a plaintiff "must present evidence that [(l)] the [defendants] acted jointly in concert and [(2)] that some overt act was done [(3)] in furtherance of the conspiracy [(4)] which resulted in [plaintiffs'] deprivation of a constitutional right ...." Hinkle v. City of Clarksburg, 81 F.3d 416,421 (4th Cir. 1996)

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[11] Based on the limited factual allegations in the Complaint, it appears that Plaintiffs are seeking to hold Defendant HCPS Board liable under§ 1983, rather than§ 1985 and§ 1986. However, if Plaintiffs are attempting to hold Defendant HCPS Board liable under §§ 1985 and 1986, those claims must also be dismissed for reasons discussed infra.

(citing Hafner v. Brown, 983 F.2d 570, 577 (4th Cir: 1992)). "While [plaintiffs] need not produce direct evidence of a meeting of the minds, (they] must come forward with specific circumstantial evidence that each member of the alleged conspiracy shared the same conspiratorial objective." Id. Plaintiffs' evidence must "reasonably lead to the inference that [defendants] positively or tacitly came to a mutual understanding to try to accomplish a common and unlawful plan." Id.; see also Ruttenberg v. Jones, 283 F. App'x 121, 132 (4th Cir. 2007) (unpublished) ("[Plaintiffs] were required to allege 'enough facts to state a claim to relief that is plausible on its face' [which] requires a 'plausible suggestion of conspiracy.'" (quoting Twombly, 550 U.S. at 566, 570)); Brown v. Angelone, 938 F. Supp. 340,346 (E.D. Va. 1996) ("The plaintiff must allege facts which show that the defendants shared a 'unity of purpose or common design' to injure the plaintiff The mere fact that each of [the] actors played a part in the events is not sufficient to show such a unity of purpose." (quoting Am. Tobacco Co. v. United States, 328 U.S. 781, 810 (1946))). Plaintiffs "have a weighty burd _n to establish a civil rights conspiracy." Hinkle, 81 F.3d at 421; see also Simmons v. Poe, 47 F.3d 1370, 1377 (4th Cir. 1995) ("[C]ourts have[] required that plaintiffs alleging unlawful intent in conspiracy claims under§ 1985(3) or 1983 plead specific facts in a nonconclusory fashion to survive a motion to dismiss." (quoting Gooden v. Howard Cty., 954 F.2d 960, 969-70 (4th Cir. 1992) (alterations in original))).

Most evidently, Plaintiffs have failed to sufficiently allege facts of any deprivation of a constitutional right. Plaintiffs allege that Defendants Kinlaw, Eggleston, Cardounel, and Crook conspired amongst themselves (and with Defendants Taylor, Kregar, and

Steverson) to unlawfully serve, prosecute, and convict Plaintiffs of trespassing on school grounds under Va. Code Ann.§ 18.2-128, in violation of Plaintiffs' First, Fourth, Fifth, Sixth, and Fourteenth Amendments.[12] However, Plaintiffs have failed to show that Defendants deprived Plaintiffs of any of these constitutionally protected rights, and thus, have failed to make out a claim for conspiracy under§ 1983.[13]

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[12] Plaintiffs also allege that their Eighth Amendment rights were violated.. However, it appears that only Judge Steverson is alleged to have violated this right. Because the Fourth Circuit dismissed the federal civil rights claims as to Judge Steverson, the Court need not address the alleged Eighth Amendment violation.

[13] The Court recognizes that claims against individuals in their official capacity "generally represent only another way of pleading an action against an entity of which an officer is an agent." Monell, 436 U.S. at 690 n.55. "As long as the government entity receives notice and an opportunity to respond, an official-capacity suit is, in all respects other than name, to be treated as a suit against the entity." Kentucky v. Graham, 473 U.S. 159, 166 (1985). Thus, when a § 1983 suit alleges claims against both the officer in his official capacity and the entity, courts in this Circuit have dismissed the official capacity claim. See, e.g., Conley v. Town of Elkton, 5:04CV00030, 2005 WL 415897, at *7 (W.D. Va. Feb. 22, 2005) (citing Love-Lane v. Martin, 355 F.3d 766, 783 (4th Cir. 2004)). It is unclear from the face of the Complaint whether Plaintiffs are suing these officials in their official or individual capacity. To the extent that they are sued in their official capacity, and to the extent the claims against them duplicate the claims against HCPD and HCPS Board, the § 1983 claims against the officers in their official capacities will be dismissed because the entities received notice and were given the opportunity to respond. See Love-Lane, 355 F.3d at 783 ("The district court correctly held that the§ 1983 claim against [the defendant] in his official capacity as Superintendent is essentially a claim against the Board and thus should be dismissed as duplicative."). To the extent the claims are not duplicative,
§ 1983 suits against officers in their official capacities are governed by Monell. See Hughes v. Blankenship, 672 F.2d 403, 406 (4th Cir. 1982) ("Official capacity suits generally represent but another way of pleading an action against the entity of which the officer is an agent ....
[Therefore, since] the injury occurring in this case did not arise from the execution of governmental policy or custom, the defendants cannot be liable in their official capacities." (citations omittetl)). Just as Plaintiffs have failed to allege any facts of a policy or custom that governed the actions of the entities in this case, as explained above, Plaintiffs have similarly failed to allege any policy or custom that governed the actions of the officials. Furthermore, to the extent the individuals are being sued in their individual capacity, the qualified immunity analysis also disposes of those claims. See Biggs v. Meadows, 66 F.3d 56, 61 (4th Cir. 1995) ("[Q]ualified immunity is available only in a personal capacity suit "(citation omitted)).
Finally, as it is unclear whether the individuals here are being sued in their official or individual capacity, the failure to state a claim analyses apply to either type of suit. See, e.g., Greene v.
Obama, 633 F. App'x 196 (4th Cir. 2016) (unpublished).

Plaintiffs first contend that "Superintendent Kinlaw and Principal Eggleston did maliciously conspire to seek an unlawful and otherwise unenforceable summons against the parties for trespass in violation of the parties' rights and protections under the First and Fourth Amendment of the United States Constitution...." (Compl. 1104.) In regard to the First Amendment violation, Plaintiffs allege that "[t]he attempt to re-enroll M.A. in his school of origin was a protected activity and it included the First Amendment rights of [Plaintiffs] ...." (Id, . 62.) Plaintiffs presumably allege that their First Amendment rights were violated when they were served with summonses in response to their "sit in" and "protected activities" of "free speech and right to peaceably assemble."
(Id. 1166, 70.)

However, the Fourth Circuit has found that "[s]chool officials ... have the authority and responsibility for assuring that parents and third parties conduct themselves appropriately while on school property [and], such officials should never be
intimidated into compromising the safety of those who utilize school property." Lovern v. Edwards, 190 F.3d 648,655 (4th Cir. 1999); see also Carey v. Brown, 447 U.S. 455, 470-71 (1980) ("[N]o mandate in our Constitution leaves States and governmental units powerless to pass laws to protect the public from the from the kind of boisterous and threatening conduct that disturbs the tranquility of spots sele _ted by the people [such as] public and other buildings that require peace and quiet to carry out their functions, such as courts, libraries, schools, and hospitals." (citation omitted)). "The right to communicate is not limitless." See Lovern, 190 F.3d at 656.

In Lovern, the non-custodial parent of three students of Henrico County public schools brought suit against the Superintendent, alleging thafthe Superintendent violated
§ 1983 and the plaintiffs First and Fourteenth Amendment rights after the school administration sought to bar the plaintiff from entering school property. Id. at 650, 653, 656. The Superintendent's decision to prohibit plaintiffs entry onto school property was due to plaintiffs "continued pattern of verbal abuse and threatening behavior towards school officials." Id. at 655. The Fourth Circuit agreed with the district court that it lacked subject matter jurisdiction because the plaintiff failed to assert a substantial federal claim as it was unable to find that his constitutional rights w re implicated. Id. at 656.

The facts of this case are substantially similar to the facts in Lovern, except that notably only Plaintiff Hunter-Davis is a parent of the student whose rights Plaintiffs were allegedly seeking to protect. As Plaintiffs plead in their Complaint, "Eggleston went to the magistrate to swear out the summons for trespass, citing the 'staged lockdown' to justify the perception of the parties as 'disruptions' and threats to the students and the staff." (Compl. ,i 74.) Furthermore, Plaintiffs allege that even after the police arrived previously to ask the Plaintiffs to leave the school, Plaintiffs returned the next day and "publicly announced through a Facebook communique that the parties would be engaged in a 'sit in'" until the child was re-enrolled in the school. (Id. ,i 58-70.) Plaintiffs contend that "Eggleston once again demanded that they leave" and that he later "went to the magistrate to swear out the summons for trespass." (Id. ,i,i 66, 74.)

Considering the facts as Plaintiffs allege them, Plaintiffs have failed to establish that their First Amendment rights were implicated by Defendants Kinlaw's and

Eggleston's alleged actions in seeking Plaintiffs' removal from the school's property, as they have the duty and responsibility to maintain the safety and decorum of the school and may seek to prevent threats to the school and its students. See Lovern, 189 F.3d at 655-56. Therefore, Plaintiffs have failed to state a plausible claim for a violation of their First Amendment rights.

Plaintiffs next contend that Defendants (in various conspiracies) violated Plaintiffs' Fourth Amendments rights by allegedly seeking and serving Plaintiffs with unlawful and unenforceable summonses. The Fourth Amendment provides in pertinent part that "[t]he right of the people to be secure in their persons [and] houses ... against unreasonable searches and seizures shall not be violated " U.S. CONST. amend. IV.
Plaintiffs' Complaint, liberally construed, does not provide any factual allegations of an unlawful search. As such, the Court construes Plaintiffs' Complaint to allege an unlawful seizure under the Fourth Amendment.

However, Plaintiffs continually allege throughout the Complaint that they were only served with summonses for trespass, and that they were never in fact arrested. (See Compl. ,I 108 ("Plaintiffs allege that HCPD officers serv[ed] unlawful summonses where no violation or arrests had occurred ....").) "A summons requiring no more than a court appearance, without additional restrictions, does not constitute a Fourth Amendment seizure." Ryu v. Whitten, 684 F. App'x 308,311 (4th Cir. 2017) (unpublished) (collecting cases) (finding that the defendant had not violated the plaintiffs Fourth Amendment rights by obtaining and issuing a summons, even if the defendant had been

negligent in obtaining the summons as to that plaintiff).[14] Thus, the mere fact that Plaintiffs were served with summons for trespass does not constitute an unreasonable seizure under the Fourth Amendment.

The Complaint does allege that "five HCPD officers arrived to [Plaintiff Lucas's] home to serve her with the summons." (Compl. 179.) The Court recognizes that the home is the quintessential constitutionally protected area under the Fourth Amendment. See Kentucky v. King, 563 U.S. 452,459 (2011) ("It is a basic principle of Fourth Amendment law ... that searches and seizures inside a home without a warrant are presumptively unreasonable." (citations and quotations omitted)). "Except in such special situations [as consent or exigent circumstances], we have consistently held that the entry into a home to conduct a search or make an arrest is unreasonable under the Fourth Amendment unless done pursuant to a warrant." Guerrero v. Moore, 442 F. App'x 57, 58 (4th Cir. 2011) (unpublished) (quoting Steagald v. United States, 451 U.S. 204, 211 (1981) (alterations in original)).

In Guerrero, the Fourth Circuit found that an officer was not shielded by qualified immunity when he entered the plaintiff's home in an attempt to serve her with a

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[14] Thus, even though Plaintiffs continually allege that the summonses were obtained "unlawfully" and were "otherwise unenforceable," Plaintiffs have failed to show that their Fourth Amendment rights were violated. See Ryu, 684 F. App'x at 311 (concluding that the officer did not violate the plaintiffs Fourth Amendment right by obtaining a summons, despite the fact that the summons "might have been voidable"); see also Glass v. Anne Arundel Cty,, 716 F. App'x 179, 180 n.l (4th Cir. 2018) (unpublished) ("To the extent that [plaintiff] claims that [the officer] lacked probable cause to issue a citation, [the officer] issued only a summons, and a summons alone is insufficient to support a Fourth Amendment seizure claim." (collecting cases)). However, Plaintiffs' allegations that the summonses were unlawful are conclusory, with insufficient factual assertions to support them, which the Court need not accept.

misdemeanor summons, in violation of the Fourth Amendment. Id. ("[The officer] fails to persuade us ...that the summons was the functional equivalent of an arrest warrant for Fourth Amendment purposes [The officer] fails to cite any persuasive Fourth Amendment precedent that permits a government official to nter a dwelling to serve a non-custodial misdemeanor summons." (emphasis added)). However, unlike in that case, this Complaint alleges only that the officers "arrived to," rather than "entered," Plaintiff Lucas's home. (See Compl. 179.) Furthermore, Plaintiffs do not allege any further facts that the officers acted unreasonably, and in violation of the Fourth Amendment, when they served the summons on Plaintiff Lucas. That is, there are no facts alleged that Plaintiff Lucas was unreasonably seized, or her home unreasonably searched, which would support a plausible claim for a Fourth Amendment violation.

Consequently, Plaintiffs have failed to state a claim for an alleged Fourth Amendment violation.

Plaintiffs next contend that Defendant Kinlaw

> did conspire with [Taylor] on January 30, 2018 before the summonses for trespass were sworn to "address" the parties return ·on January 31, 2018. Plaintiffs further allege that after 2 of the parties were served on January 31, 2018, Kinlaw did again conspire with [Taylor] to prosecute the trespass case against the parties based on an unlawfully obtained summons, and that [Taylor] did maliciously prosecute the matter in the interest of Kinlaw and HCPS, rather than in the interest of the public, justice, and the State.

(Compl. 1 109.) Plaintiffs allege that this was done in violation of the Fourth, Fifth, Sixth, and Fourteenth Amendments.[15] The Court has already found that Plaintiffs have

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[15] The remainder of this paragraph in the Complaint contains allegations against Defendant Taylor alone, and then concludes by alleging these various violations of the Constitution. Thus, it is not clear if Plaintiffs are claiming that this alleged conspiracy between Defendants Kinlaw

failed to state a claim for a violation of their Fourth Amendment rights. Furthermore, Plaintiffs do not allege any facts as to how, and under which provisions, their Fifth and Sixth Amendment rights were violated by Defendants. Even construing the Complaint liberally, the Court cannot-nor is it required t iscem how Defendants deprived Plaintiffs of these constitutionally protected rights without any factual support alleged. See Laber, 438 F.3d at 413 n.3.

Finally, Plaintiffs repeatedly allege throughout Count II that Defendants' actions violated their constitutional rights under the Fourteenth Amendment.[16] The Court first surmises that Plaintiffs have included the Fourteenth Amendment in the majority of their allegations because the Fourteenth Amendment makes applicable to the States the provisions of the Bill of Rights that Plaintiffs allege Defendants have violated. See Timbs v. Indiana, 139 S. Ct. 682,687 (2019) ("When ratified in 1791, the Bill of Rights applied only to the Federal Government. ... With only 'a handful' of exceptions, this Court has held that the Fourteenth Amendment's Due Process Clause incorporates the protections contained in the Bill of Rights, rendering them applicable to.the States." (citing McDonaldv. Cityo/Chicago, 561 U.S. 742, 764-65 & nn. 12-13 (2010)). The

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and Taylor violated these constitutional rights. However, the Court will liberally construe the Complaint to include such alleged violations for the conspiracy claim.

[16] In this Court's previous Memorandum Opinion in this case, the Court dismissed Plaintiffs' equal protection claim for lack of standing to the extent that that claim was brought as an alleged violation of M.A.'s constitutional rights, which was affirmed by the Court of Appeals. Thus, the Court need not address the parts of Count II of the Complaint that allege violations ofM.A.'s equal protection rights

Fourteenth Amendment, however, does not save Plaintiffs from failing to state a claim for any of the alleged violations under the Bill of Rights.

To the extent Plaintiffs allege independent violations of the Fourteenth Amendment, these allegations also fail to state a claim. Like the claims alleging violations of the Fifth and Sixth Amendments, the Complaint fails to state how, and under which provisions, Defendants violated Plaintiffs' Fourteenth Amendment rights. (See, e.g., Compl. 1 105.) Plaintiffs are presumably alleging violations under the Due Process Clause of the Fourteenth Amendment, as they reiterate that Defendants engaged in a conspiracy to obtain an "unlawful and unenforceable summons for trespass" against Plaintiffs. (See, e.g., id. 11105, 109.)

The Due Process Clause of the Fourteenth Amendment states that no State shall "deprive any person of life, liberty, or property, without due process oflaw." U.S. CONST. amend. XIV, § 1. While the Due Process Clause offers a breadth of protections, it is not the proper way "to evaluate law enforcement's pretrial missteps. Compared to the more generalized notion of due process, the Fourth Amendment provides an explicit textual source of constitutional protection against unreasonable seizures and arrests and defines the process that is due for seizures of persons or property in criminal-cases." Safar v. Tingle, 859 F.3d 241,245 (4th Cir. 2017) (citations and internal quotations omitted); see also Cty. of Sacramento v. Lewis, 523 U.S. 8331 843 ("[I]f a constitutional claim is covered by a specific constitutional provision ... , the claim must be analyzed under the standard appropriate to that specific provision, not under the rubric of substantive due process." (quoting United States v. Lanier, 520 U.S. 259, 272 n.7

(1997))). Thus, the Fourteenth Amendment's Due Process Clause is not the proper vehicle for Plaintiffs' claims; instead, the Fourth Amendment would be the only available actionable ground for relief, but as discussed previously, Plaintiffs fail to sufficiently allege a viable Fourth Amendment violation.[17]

Even if the Court were to read the Complaint as alleging a violation of Plaintiffs' equal protection rights under the Fourteenth Amendment, Plaintiffs have yet again failed to allege a sufficient claim. The Equal Protection Clause provides that no State shall "deny to any person within its jurisdiction the equal protection of the laws." -U.S. CONST. amend. XIV, § I. "In order to survive a motion to dismiss an equal protection claim, a plaintiff must plead sufficient facts to demonstrate plausibly at he was treated differently from others who were similarly situated and that the unequal treatment was the result of discriminatory animus." Equity in Athletics, Inc., v. Dep't. of Educ., 639 F.3d 91, 108 (4th Cir. 2011) (citing Morrison v. Garraghty, 239 F.3d 648,654 (4th Cir. 2001)). Plaintiffs have failed to allege any facts that they wete not treated just as any other member of society would have been treated after threatening a "sit in" on school property on a social media website, demanding that they had rights to remain on and return to that property, and commanding that they would return everyday if necessary.

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[17] Even if the Plaintiffs' claims were not covered by the Fourth Amendment, and instead a substantive due process analysis were more appropriate, Plaintiffs have not provided a sufficient factual basis to show that Defendants' actions "shocked the conscience." Lewis, 523 U.S. at 847 ("[T]he substantive component of the Due Process Clause is violated by executive action only when it can properly be characterized as arbitrary, or conscience shocking, in a constitutional sense." (internal citations and quotations omitted)).

(Compl. 1166, 70.) As such, Plaintiffs have failed to sufficiently allege a violation of the Equal Protection Clause of the Fourteenth Amendment.

Accordingly, Plaintiffs have failed to state a plausible claim under the Fourteenth Amendment.

Thus, by failing to allege sufficient facts of any deprivation of their constitutional rights, Plaintiffs have failed to state a claim for civil conspiracy under § 1983.18 See Hinkle, 81 F.3d at 421; see also Richardson v. Grievance Coordinator, No. 7:14cv470, 2014 WL 5147916, at *3 (W.D. Va. Oct. 14, 2014) (dismissing the plaintiffs civil conspiracy claim because he "failed to demonstrate that actions of any of the defendants

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[18] To the extent the Complaint also alleges any non-conspiratorial constitutional deprivation under § 1983, see, e.g., Compl. 1 107-08, those claims will be similarly dismissed for failure to state a claim because plaintiffs have failed to sufficiently allege any constitutional injury.
Albright v. Oliver, 510 U.S. 266, 269 (1994) ("Section 1983 is not-itself a source of substantive rights, but merely provides a method for vindicating federal rights elsewhere conferred. The first step in any such claim is to identify the specific constitutional right allegedly infringed." (internal citations and quotations omitted)); see also Harris v. Frazier, No. 3:07-cv'."701, 2009 WL 890161, at *12 (E.D. Va. Mar. 30, 2009) ("[S]upervisory liability under§ 1983 cannot exist without an underlying constitutional violation ...."); Lowe v. Hoffman, No. 1:07cv363, 2008 WL 3895599, at *5 (E.D. Va. Aug. 20, 2008) (concluding that defendants could not be held liable based on a theory of bystander liability because plaintiffs constitutional rights were not violated). Additionally, while the Complaint contains allegations that Defendant Crook committed perjury, the only allegation of perjury in Count II was that Defendants Taylor and Kregar conspired to procure Defendant Crook's perjury in violation of 18 U.S.C. § 1622, which
provides that "[w]hoever procures another to commit any perjury is guilty of subornation of perjury." (See Compl. ,r,r 85, 110.) Thus, Count II does not contain a perjury allegation against
Defendant Crook, or any of the remaining Defendants. However, to the extent the Complaint can be viewed as attempting to hold Defendant Crook liable under federal civil rights law for his alleged perjury, Plaintiffs fail to assert how this alleged perjury violated their constitutional rights or formed the basis for any federal civil rights claim. See Foster v. Fisher, 1:l 4-cv-292, 2016 WL 900654, at *11 (W.D.N.C. Mar. 9, 2016) ("While Plaintiff makes clear that [Defendant's] alleged perjury is of the utmost importance to her, Plaintiff fails to make any argument as to how the alleged perjury of a (state actor) witness in a state court proceeding forms any basis for a federal civil rights claim."), ajf'd, 694 F. App'x 887, 888 (4th Cir. 2017) (unpublished) ("We agree with the district court that [the plaintiff] has failed to articulate how the alleged perjury amounts to a viable civil rights claim under 42 U.S.C. § 1983 (2012).").

violated his constitutional rights, as is required to establish a civil conspiracy); Bell v. Johnson, No. 7:09-cv-214, 2011 WL 1226003, at *10 (W.D. Va. Mar. 30, 2011) ("[Plaintiffs] conspiracy claim ... is foiled at the outset ... since he has failed to establish an underlying constitutional deprivation.").

While the Court need not address the additional elements of a § 1983 civil conspiracy claim, Plaintiffs have failed to allege sufficient facts establishing these remaining elements. See Hinkle, 81 F.3d at 421. Specifically, Plaintiffs have failed to show that Defendants "shared the same conspiratorial objective" or that they "positively or tacitly came to a mutual understanding to try to accomplish a common and unlawful plan."[19] See id. Instead, the facts Plaintiffs do allege show that the school administrators legitimately reached out to law enforcement officers, and sought summonses, to rightfully protect their school and students against disruptive behavior on school property. See Lovern, 190 F.3d at 655-56.

As such, Plaintiffs have failed to plausibly allege a claim for civil conspiracy under§ 1983.. Accordingly, those claims will be dismissed.

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[19] Plaintiffs continually rely on language from an email that they attached as an exhibit to their Complaint. Specifically, Plaintiffs allege that Defendant Cardounel "did conspire with Superintendent Kinlaw and Principal Eggleston to advise them on.how they could provide the police with the 'direction/authority' to 'address' the parties as trespassers in violation of their Fourth and Fourteenth Amendment protections ...." (Compl. 1106 (quoting Ex. 6).) However, on its face, this allegation fails to satisfy Plaintiffs' weighty burden to establish an unlawful agreement between the parties. See Hinkle, 81 F.3d at 421. Furthermore, the actual email exhibit shows that the email was written after the summonses were issued, and thus fails to show how Defendants conspired against Plaintiffs in seeking the summonses. Because Plaintiffs continually incorporate the "direction/authority" language from the exhibit in their Complaint and assert it as part of their factual basis of an alleged conspiracy, .the Court finds that Plaintiffs have relied on the exhibit for its truthfulness; given the conflict between the exhibit and the allegations in the Complaint, the exhibit prevails. See Goines, 822 F.3d at 165-69.

D. Plaintiffs Fail to State a Claim for Conspiracy Under §§ 1985 and 1986

Plaintiffs further allege in Count II that Defendants' actions violated § 1985. Plaintiffs do not identify which subsection of§ 1985 was allegedly violated·. However, in the Complaint's Statement of Facts, Plaintiffs have included language from§ 1985(2). (See Compl. ,i 32 ("if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws").)

While Plaintiffs have included verbatim the language from § 198 (2), that subsection proscribes conspiracies that interfere with the administration of justice in the court system. Notably, the language quoted by Plaintiffs comes from the "second part of § 1985(2)" which "applies to conspiracies to obstruct the course of justice in state courts." Kush v. Rutledge, 460 U.S. 719, 722 n.3, 725 (1983); see also Roper v. Cty. of Chesterfield, 807 F. Supp. 1221, 1226 (E.D. Va. 1992) ("Virtually all courts have held that the second clause of Section 1985(2) applies to ... joint efforts to prevent equal access to state judicial proceedings." (citations omitted)). "[This portion] of the statute contains language requiring that the conspirators' actions be motivated by an intent to deprive their victims of the equal protection of the laws." Kush, 460 U.S. at 725; see also Bloch v. Mountain Mission Sch., No. 86-1279, 1988 WL 45433, at *l (4th Cir. May 2, 1988) (unpublished) ("[A] racial or class-based animus is necessary for a violation of ... the second half of§ 1985(2) "). However, it is unclear from the allegations in the

Complaint: l) how Defendants conspired "to obstruct the course of justice in state courts," that is, how Defendants acted in concert to prevent Plaintiffs' equal access to Virginia state court proceedings, and 2) that Defendants acted with the intent to deprive Plaintiffs "of the equal protection of the laws." See Kush, 460 U.S. at 725. Thus, Plaintiffs have failed to state a claim under § 1985(2).

Despite Plaintiffs having included language from § 1985(2) in their Statement of Facts, Defendants have repeatedly contended that Plaintiffs have presumably brought suit under§ 1985(3). Plaintiffs have not argued to the contrary, despite numerous opportunities to do so. Construing Plaintiffs' Complaint liberally as the Court must, the Court also finds that Plaintiffs have failed to state a claim under § 1985(3).

Section 1985(3) proscribes:

> If two or more persons ... conspire ... for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws ... whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators

Simmons, 47 F.3d at 1376 (quoting§ 1985(3)).

To state a claim for conspiracy under§ 1985(3), Plaintiffs must prove the following elements:

> (I) a conspiracy of two or more persons, (2) who are motivated by a specific class-based, invidiously discriminatory animus to (3) deprive the plaintiff of the equal enjoyment of rights secured by the law to all, (4) and which results in injury to the plaintiff as (5) a consequence of an overt act committed by the defendants in connection with the conspiracy.

Id Plaintiffs "must show an agreement or a 'meeting of the minds' by defendants to violate [Plaintiffs'] constitutional rights." Id at 1377 (citations omitted). Plaintiffs must satisfy a "relatively stringent standard" in order to establish a viable § 1985 conspiracy claim. Id. "[T]he racial or class-based invidiously discriminatory animus requires concrete supporting facts and cannot be inferred." Patterson..v. McCormick, No. 2:13cv293, 2014 WL 2039966, at *7 (E.D. Va. May 15, 2014) (citing Gooden, 954 F.2d at 970)..

Thus, in order to establish a § 1985(3) conspiracy claim, Plaintiffs must again show that Defendants unlawfully conspired to deprive Plaintiffs of their constitutional rights. See Simmons, 47 F.3d at 1377 ("Under this relatively stringent standard for establishing section 1985 conspiracies, it is clear that [the plaintiff] did not put forth sufficient evidence that [the defendants] 'conspired' or participated in any joint plan, to deprive him of his constitutional rights under section 1985(3)."). Accordingly, for the same reasons the conspiracy claims under§ 1983 must be dismissed under Rule 12(b)(6)-that is, because Plaintiffs have failed to allege sufficient facts of any constitutional injury or that Defendants mutually agreed to participate in an unlawful plan-and because Plaintiffs have failed to allege that Defendants were "motivated by a specific class-based, invidiously discriminatory animus," Plaintiffs have failed to state a claim for a§ 1985(3) conspiracy.[20] See id. at 1376; see also Patterson, 2014 WL

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[20] In Gooden, the Fourth Circuit found that the plaintiffs "§ 1985(3) claim was essentially an afterthought with little more to support it than the respective racial identities of the individuals involved," and that the mere assertion that the officers in question were of a different race than the plaintiff was not enough "to overcome the fact that the officers acted upon the basis of a citizen's complaint, confirmed repeatedly by their own observations " 954 F.2d at 970.

"The doctrine of qualified immunity protects government officials 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" Pearson v. Callahan, 555 U.S. 223,231 (2009) (quoting Harlow v. Fitzgerald, 457 U.S. 800,818 (1982)); see also Goines, 822 F.3d at 163. Qualified immunity "is an immunity from suit rather than a mere defense to liability ... [and] it is effectively lost if a case is erroneously permitted to go to trial." Mitchell v. Forsyth, 472 U.S. 511, 526_(1985) (emphasis omitted). Thus, issues of immunity should be resolved "at the earliest possible stage of litigation." Pearson, 555 U.S. at 232 (quoting Hunter v. Bryant, 502 U.S. 224, . 227 (1991)).

To determine whether an officer is protected by qualified immunity, the Court must decide: 1) whether the alleged facts "make out a violation of a constitutional right," and 2) whether that right was "clearly established" at the time of the officer's alleged misconduct. Id.; see also Ridpath v. Bd o/Governors Marshall Univ., 447 F.3d 292,306 (4th Cir. 2006) (defining the "qualified immunity test" as "(I) the allegations underlying the claim, if true, substantiate the violation of a federal statutory or constitutional right; and (2) this violation was of a 'clearly established' right of which a reasonable person would have known" (internal citations and quotations omitted)). The Supreme Court no longer mandates a particular sequence in how these two elements should be addressed. Pearson, 555 U.S. at 236. If both aspects of the test are met, then the government official is not entitled to a qualified immunity defense. See Ridpath, 447 F.3d 292 at 306.

In this case, the Court need not address the second-prong of the qualified immunity test, as Plaintiffs' have failed to sufficiently allege violations of any constitutionally protected right, for the reasons stated in Section III.C of this Memorandum Opinion. See Evans v. Chalmers, 703 F.3d 63§, 646 (4th Cir. 2012) (citation omitted) ("To escape dismissal of a complaint on qualified immunity grounds, a plaintiff must (1) allege a violation of a right (2) that is clearly established at the time of the violation."). As such, for the same reasons the Complaint must be dismissed because
the Plaintiffs have failed to sufficiently allege a violation of a constitutional right, see Sheppardv. Visitors of Va. State Univ., No. 3:18-cv-723-HEH, 2019 WL 1869856, at *6 (E.D. Va. Apr. 25, 2019), Defendants Eggleston and Kinlaw are protected by qualified immunity, and Plaintiffs are barred from pursuing their damages claims against them in their individual capacities. [23]

F. The Court Declines to Exercise Supplemental Jurisdiction Over Plaintiffs' Remaining State Claims

This Court declines to exercise supplemental jurisdiction over Plaintiffs' remaining Counts IV-VI. See 28 U.S.C. § 1367(c)(3) ("The district courts may decline to exercise supplemental jurisdiction over a claim ... [where] the district court has dismissed all claims over which it has original jurisdiction ").Because this Court has dismissed all of Plaintiffs' claims over which it has original jurisdiction, for the reasons

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[23] It appears that Plaintiffs do not seek damages from Defendants Cardounel and Crook. Because qualified immunity only applies in damages suits, the Court does not apply this doctrine to these defendants. However, if Plaintiffs did attempt to later bring a damages suit against these defendants, or to the extent the Complaint could be read as seeking damages against these defendants, they would also be protected by qualified immunity.

2039966, at *8 ("[T]he Plaintiff fails to show any 'meeting of the minds' by the Defendants to deprive him of any civil rights."). Accordingly, those claims will similarly be dismissed.[21]

Because "[a] cause of action based upon§ 1986 is dependent upon the existence of a claim under§ 1985," Plaintiffs' § 1986 claim will also be dismissed. Trerice v. Summons, 755 F.2d 1081, 1085 (4th Cir. 1985).

E. Defendants Kinlaw and Eggleston are Protected by Qualified Immunity

As government officials, Defendants Kinlaw and Eggleston are protected from suit by qualified immunity. As such, Count II will additionally be dismissed against these defendants on qualified immunity grounds, to the extent Plaintiffs seek damages against these Defendants in their personal capacities. [22]

Similarly, in this case, the mere fact that Plaintiffs and M.A. are African American and that the school is "predominantly Asian and White," and that Defendants Kinlaw and Eggleston are Caucasian and Defendant Cardounel is Latino (as alleged in the Complaint), does not show the unlawful intent necessary to establish a § 1985(3) claim. (Compl. 117-26.)

[21] In Hinkle, upon finding that the district court properly dismissed the civil conspiracy claim under§ 1983, in a footnote, the Fourth Circuit dismissed the conspiracy claims under§ 1985 for the same reasons, as the claimants used the same evidence to support both conspiracy claims. 81 F.3d at 423 n.4. This Court applies the same reasoning, as Plaintiffs have failed to offer differing evidence for their conspiracy claims; indeed, they allege the same counts for the § 1983 claim as they do for the § 1985 claim, and fail to distinguish them in their Complaint.

[22] The Court recognizes that qualified immunity only applies to suits that seek damages, and not equitable relief, against government officials. See Wall v. Wade, 741 F.3d 492,498 n.9 (4th Cir. 2014) ("The plaintiff's claims for equitable relief are not affected by the doctrine of qualified immunity, which 'has no application to suits for declaratory or injunctive relief."' (quoting S.C. State Bd of Dentistry v. F.T.C., 455 F.3d 436, 446-47 (4th Cir. 2006))). It is clear from the face of the Complaint that Plaintiffs seek damages from Defendants Kinlaw and Eggleston. (Compl. 40.) However, it is unclear the extent to which the Plaintiffs seek declaratory and injunctive relief from these two Defendants. Thus, for the sake of thoroughness, the Court also dismisses Plaintiffs' claims against these two Defendants under Rule 12(b)(6).

discussed supra, the Court need not resolve Plaintiffs' remaining Counts IV-VI, which arise under the laws and constitution of the Commonwealth of Virginia. Accordingly, these state law claims will also be dismissed.[24]

IV. CONCLUSION

For all these reasons, the remaining claims in Plaintiffs' Complaint will be dismissed in their entirety. Accordingly, Plaintiff Crawford's Motion to Sever Plaintiff (ECF No. 72) will be denied as moot. Because the Court declines to exercise supplemental jurisdiction over Plaintiffs' state law claims, the Court need not address Defendants Taylor's, Kregar's, and Steverson's Renewed Motions to Dismiss (ECF Nos. 63, 66), and they will also be denied as moot.

An appropriate Order will accompany this Memorandum Opinion.

/s/
Henry E. Hudson
Senior United States District Judge

Date: Nov, G 2,ol 'f

Richmond, VA

[24] While the Fourth Circuit did vacate this Court's previous judgment declining to exercise supplemental jurisdiction over these state law claims, it did so because it also vacated the dismissal of the remaining federal civil rights claims against Defendants. Having now dismissed these federal claims on alternative grounds, this Court may again decline to exercise supplemental jurisdiction over the state law claims as to all Defendants, including Defendants Kregar, Taylor, and Steverson.