

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

CHANTE PRICE,  
as next friend to T.P.  
2412 Elvans Road, S.E. #204  
Washington, DC 20020

Plaintiff,

v.

DAVID E. BAILEY, JR. (Badge No. 2460)  
Metropolitan Police Department  
Seventh District Station  
2455 Alabama Avenue, S.E.  
Washington, DC 20020

and

DISTRICT OF COLUMBIA  
Office of the Attorney General  
441 4th Street, N.W.  
Washington, DC 20001

Defendants.

No. \_\_\_\_\_

JURY TRIAL DEMANDED

**COMPLAINT**

(Seeking damages for police misconduct: violation of rights under the  
Constitution of the United States and the law of the District of Columbia)

**INTRODUCTION**

1. This is an action for damages and other relief by Chante Price, on behalf of her minor son T.P., who, while at his elementary school in Southeast D.C., was assaulted and battered without any lawful basis by Defendant Metropolitan Police Officer David E. Bailey, Jr. Defendant Bailey's actions were an intentional and outrageous violation of T.P.'s rights under the Fourth Amendment to the Constitution and constitute assault and battery under the laws of

the District of Columbia. Ms. Price, as next friend to T.P., accordingly seeks compensatory and punitive damages, attorney's fees, costs and other appropriate relief.

### **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction under 28 U.S.C. § 1331 (federal question). Ms. Price brings this action on behalf of T.P. under 42 U.S.C. § 1983 to vindicate T.P.'s rights established by the Fourth Amendment to the United States Constitution. Plaintiff's claims under the common law of the District of Columbia arise from the same occurrence as the constitutional claims and are within the Court's supplemental jurisdiction pursuant to 28 U.S.C. § 1367.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because the events giving rise to the Plaintiff's claim occurred in the District of Columbia.

### **PARTIES**

4. Plaintiff Chante Price is an adult resident of the District of Columbia. She is T.P.'s biological mother and custodial parent. She brings this action on behalf of T.P.

5. T.P. is a juvenile resident of the District of Columbia.

6. Defendant David E. Bailey, Jr. (Badge No. 2460) is a sworn officer employed by the District of Columbia Metropolitan Police Department ("MPD"). At all times during the events at issue he was acting under color of law and within the scope of his employment. He is sued in his individual capacity.

7. Defendant District of Columbia is a municipal corporation and the local government of Washington, D.C. Defendant District of Columbia operates and governs the MPD pursuant to the laws of the District of Columbia. In this case, the District of Columbia acted through its agents, employees and servants, including Defendant Bailey.

## FACTS

8. At the time of the incident in question, T.P. was 10 years old. He stood 4 feet 10 inches high and weighed approximately 80 pounds. T.P. attended Moten Elementary School at Wilkinson, a public school in the District of Columbia. On information and belief, during the 2011-2012 school year, students from Moten Elementary School attended school in the Wilkinson Elementary School building, known as “Moten at Wilkinson,” while Moten Elementary was renovated. Wilkinson Elementary School is now closed and students have again been relocated to the main Moten Elementary School building.

9. On April 19, 2012, T.P. was in music class. T.P.’s teacher sent him to the cafeteria because he wasn’t participating adequately in the class. In the cafeteria, he sat at a lunch table with a few other classmates who were also being disciplined. Officer Bailey was present in the cafeteria. There were no other adults in the immediate vicinity.

10. On information and belief, Officer Bailey regularly stopped in Moten Elementary School at Wilkinson as part of his routine patrol.

11. Officer Bailey lectured the children about behaving in class. T.P. quietly discussed the book he was reading with a classmate.

12. Officer Bailey approached T.P. and said, “Stop playing with me.” T.P. responded that he was “not playing.” Officer Bailey grabbed T.P. by the back of his head and slammed T.P.’s head forward into the table. Officer Bailey then grabbed T.P. by the shirt and forcefully lifted him off his chair. Officer Bailey threatened, “Play with me again, I’ll take you to 7D [the Seventh District police station].” Officer Bailey dropped T.P. back onto his chair.

13. T.P.'s teacher entered the cafeteria shortly after the incident, and T.P. reported the incident to her. The teacher responded that she could not do anything because Officer Bailey was a police officer.

14. As a result of the incident, T.P. suffered injuries to his head and his chest.

15. After school, T.P. told his mother about the incident. He reported that he had a terrible headache and felt sleepy. Ms. Price took T.P. by bus to the Children's National Emergency Department at United Medical Center, where he was treated.

16. T.P.'s headache lasted approximately two weeks before dissipating.

17. On information and belief, T.P. suffered a mild concussion as a result of Officer Bailey's actions.

18. Prior to the April 19, 2012 incident, T.P. was an avid learner and was eager to attend school. Since the incident, he has not wanted to attend school and feels insecure in his classroom, even with a teacher present.

19. At all times relevant to this complaint, Officer Bailey acted under color of law, statute, custom or usage of the District of Columbia.

20. At all times relevant to this complaint, Officer Bailey acted within the scope of his employment as an MPD officer and acted on behalf of and in the interests of his employer.

21. Officer Bailey's intentional use of force against T.P. restrained T.P.'s freedom of movement. While in the grasp of Officer Bailey, T.P. was not free to leave and could not have attempted to leave without initiating a physical struggle.

22. Officer Bailey acted with malice toward T.P. and with reckless indifference to and in deliberate disregard of T.P.'s constitutional and other legal rights.

23. At all times relevant to this complaint, it was clearly established as a matter of law that a police officer may not seize an individual without probable cause to believe that the individual had committed, was committing or was about to commit a criminal offense.

24. No reasonable police officer in the position of Officer Bailey could have believed there was probable cause, or even reasonable suspicion, to seize T.P.

25. At the time of the incident, it was clearly established as a matter of law that a police officer may not use excessive force against a seized individual.

26. No reasonable police officer in the position of Officer Bailey could have believed it was appropriate, reasonable or necessary to use force against a 10-year-old boy, in light of his age, size, the nature of the incident, the lack of probable cause and the lack of any threat to the safety of the officer or others.

27. On May 25, 2012, Ms. Price filed a complaint against Officer Bailey with the District of Columbia Office of Police Complaints (“OPC”). The OPC investigation is ongoing.

28. The notice-of-claim requirement set forth in D.C. Code § 12-309 was satisfied by a letter sent to the District of Columbia Office of Risk Management on October 16, 2012. The Office of Risk Management confirmed receipt of the notice of claim and assigned the case claim number 1200829-000.

29. On November 19, 2012, OPC informed Ms. Price that it was referring her complaint to the United States Attorney’s Office for the District of Columbia (“USAO”) for possible criminal prosecution of Officer Bailey.

30. On March 8, 2013, OPC informed Ms. Price that the USAO had declined to prosecute Officer Bailey, and that OPC was resuming its investigation of the complaint.

**CLAIMS FOR RELIEF**

**Claim I: Violation of Fourth Amendment Rights – Unlawful Seizure and Excessive Use of Force (Officer Bailey)**

31. T.P.'s conduct on April 19, 2012, did not provide probable cause, or even reasonable suspicion, to believe that he had committed, was committing or was about to commit a crime. Defendant Bailey's seizure and assault of T.P. without probable cause violated T.P.'s right under the Fourth Amendment to the United States Constitution to be free of unreasonable seizure and the use of excessive force. Violation of that right is made actionable by 42 U.S.C. § 1983, and Officer Bailey is liable for compensatory and punitive damages.

32. The relevant law was clearly established at the time of Defendant Bailey's actions. No reasonable police officer could have believed that T.P.'s conduct justified seizure and excessive force.

**Claim II: Assault (All Defendants)**

33. Defendant Bailey's intentional use of force against T.P., by slamming his head into the table, picking him up off his chair, and dropping him back into his chair, all without legal justification, constitutes assault under the law of the District of Columbia. Officer Bailey is liable for compensatory and punitive damages.

34. Defendant District of Columbia is liable for damages under the doctrine of *respondeat superior* for the assault committed by its agent, Officer Bailey, while acting within the scope of his employment as an MPD officer and on behalf of and in the interests of his employer.

**Claim III: Battery  
(All Defendants)**

35. Defendant Bailey's intentional use of force against T.P., by slamming his head into the table, picking him up off his chair, and dropping him back into his chair, all without legal justification, constitutes battery under the law of the District of Columbia. Officer Bailey is liable for compensatory and punitive damages.

36. Defendant District of Columbia is liable for damages under the doctrine of *respondeat superior* for the battery committed by its agent, Officer Bailey, while acting within the scope of his employment as an MPD officer and on behalf of and in the interests of his employer.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that this Court:

(a) DECLARE that the actions of Defendant David E. Bailey, Jr., as alleged herein, violated the rights of T.P. under the Fourth Amendment to the United States Constitution and the laws of the District of Columbia;

(b) ENTER JUDGMENT awarding compensatory and punitive damages against Defendant Bailey in an amount appropriate to the evidence adduced at trial;

(c) ENTER JUDGMENT awarding compensatory damages against Defendant District of Columbia in an amount appropriate to the evidence adduced at trial;

(d) ENTER JUDGMENT awarding costs and reasonable attorneys' fees in this action as provided in 42 U.S.C. § 1988; and

(e) GRANT such other and further relief as this Court may deem just and proper.

**JURY DEMAND**

Plaintiff requests a trial by jury.

Respectfully submitted,

/s/ Arthur B. Spitzer

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April 11, 2013