

AUG 28 2023

JOHN D. HADDEN
CLERK

IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

JUSTIN and LYNDY MECKLENBURG,)

Petitioners,)

v.)

KINGFISHER INDEPENDENT SCHOOL)

DISTRICT NO. 7 OF KINGFISHER)

COUNTY, OKLAHOMA, a/k/a)

KINGFISHER PUBLIC SCHOOLS;)

DAVID GLOVER, Superintendent of)

Kingfisher Public Schools; OKLAHOMA)

STATE DEPARTMENT OF EDUCATION;)

OKLAHOMA STATE BOARD OF)

EDUCATION; and RYAN WALTERS,)

State Superintendent of Public Instruction;)

Respondents.)

Case No. **#121552**

APPLICATION TO ASSUME ORIGINAL JURISDICTION
AND PETITION FOR WRIT OF MANDAMUS

The minor children at Kingfisher Public Schools (KPS) face a clear and present danger. Across the state, child abuse has infiltrated and run rampant in our school system. It seems like every week there is a new story about a public-school employee accused of abusing children in Oklahoma schools—or failing to stop abuse before it was too late:

- *Former Ninnekah Girls Basketball Coach Pleads Guilty in Sexual Grooming Case* THE OKLAHOMAN (August 17, 2023, Josh Dulaney);¹
- *Former Oklahoma Teacher, School District Named in Lawsuit with Sexual Abuse Allegations: The alleged victim was a special needs student*, KOCO: NEWS 5 (August 2, 2023, Evan Onstot);²

¹ <https://www.oklahoman.com/story/news/2023/08/17/former-ninnekah-high-school-coach-ronald-gene-akins-sexual-abuse-plea/70614655007/>.

² <https://www.koco.com/article/oklahoma-teacher-sexual-abuse-allegations/44717115>.

- *Wewoka Principal Charged with Inappropriately Touching Two Children*, THE OKLAHOMAN (April 13, 2023, Nuria Martinez-Keel);³
- *Ringling High football coach put on paid administrative leave pending investigation into claims of abuse*, KFOR: OKLAHOMA NEWS 4 (February 22, 2023, Kaylee Olivias);⁴
- *Edmond Public Schools Reviewing Bullying Allegations after Santa Fe Freshman's Death*, THE OKLAHOMAN (February 23, 2023, Hallie Hart);⁵

Sadly, Kingfisher is not immune to this phenomenon.

For the better part of the past two decades, KPS has maintained an athletic program that condones and encourages bullying, hazing, violence, and child abuse. Minor children have been sodomized, urinated on, tazed, whipped, beaten, humiliated, and verbally and mentally abused. All of it took place on school property. All of it took place under the supervision of KPS coaches. All of it took place during the reign of the same head football coach: Jeff Myers. And (as in the stories above) many times KPS coaches were the abusers. As KPS's own policies recognize, it is only a matter of time before one of the victims in Kingfisher turns to violence and brings tragedy to our community like what happened in Columbine, Uvalde, and Parkland.

This cannot be allowed to happen.

Nevertheless, no one at KPS or in our state institutions is doing anything to stop it. KPS has known about the toxic, dangerous culture in its football program for over a decade. The State Department of Education (OSDE) has been aware for nearly two years. Yet neither—none of those

³ <https://www.oklahoman.com/story/news/education/2023/04/13/wewoka-oklahoma-principal-accused-sexual-assault-charged-felonies/70109436007/>.

⁴ <https://kfor.com/news/local/ok-football-coach-on-paid-leave-pending-abuse-probe/>.

⁵ <https://www.oklahoman.com/story/news/2023/08/17/former-ninnekah-high-school-coach-ronald-gene-akins-sexual-abuse-plea/70614655007/>.

elected, appointed, or employed to keep our schools safe—have lifted a finger to eliminate this threat. That is unacceptable. And, as detailed in Petitioners’ submissions, it is unlawful.

Our schools are supposed to be safe. We are required, by law, to send our children to school from the time they are five years old until they are old enough to leave us and enter the world as adults. Many of our children spend the majority of their waking moments in school—especially those engaged in extracurricular activities like school athletics. The State requires us to hand our minor children over to the care of other adults, who we pay with our tax dollars to keep our children safe. And, while our children are in their care, it is their job to protect our children from sexual abuse, violence, bullying, hazing and other harm. As such, when a teacher or school official has reason to believe that such abuse is happening, they have a legal and moral duty to report it and take action to stop it. The same duties apply to those in our state institutions.

But where, as here, both the local and state school administrations abdicate their responsibility, Oklahoma law provides another layer of protection for our children: this Court. Accordingly, Petitioners Justin and Lyndy Mecklenburg, in their capacity as parents of a minor child currently enrolled in KPS and as taxpaying citizens of Kingfisher County, apply to this Court to assume original jurisdiction and grant their petition for a writ of mandamus, directing Respondents—KPS; David Glover, Superintendent of Kingfisher Public Schools; OSDE; the Oklahoma State Board of Education (SBOE); and Ryan Walters, State Superintendent of Public Instruction—to take the necessary action to terminate the employment of Jeff Myers, who to this day remains the head coach of the Kingfisher High School football team. The requested relief is necessary to ensure the health and safety of Kingfisher public school students, whose wellbeing is currently endangered by the toxic, abusive environment cultivated by Coach Myers, and by the

indifference and inaction of those with the power to fix it. In support of their Application, Petitioners would show the Court as follows:

1. Since taking control of the football program in 2004, Myers has presided over an athletic department marked by bullying, hazing, violence, and child abuse. Under Myers's supervision, KPS students—minor children—have been sodomized, urinated on, tazed, whipped, beaten, humiliated, and verbally and mentally abused. Myers and his coaching staff were not only aware of this abuse—they were often the perpetrators of the abuse. And the KPS School Board is aware of it: Myers's file is overstuffed with complaints from parents, letters written to the State Board, and criminal investigations into Myers and the toxic environment he permits and even fosters in his football program. The horrific environment children are subjected to under Myers's supervision is well documented—as Petitioners' Brief will show.

2. Yet, to this day, Myers is still the head football coach at KPS. Not only that, he is also one of KPS's highest paid employees. KPS has never formally reprimanded Myers for his actions. KPS has never put Myers on leave. KPS has never initiated termination or disciplinary proceedings against Myers. In fact, KPS has done *nothing* to protect the minor students in its care, instead displaying deliberate indifference to the dangerous environment infecting Kingfisher High School and threatening the wellbeing of its students.

3. Oklahomans entrust the health and safety of their children to public school officials. And so, when school district officials identify the kind of misconduct and systemic failures occurring in KPS's athletic program, Oklahoma law imposes a mandatory duty on those officials to take disciplinary action. *See* 70 O.S. §§ 6-101.22 to 6-101.26. At a minimum, school officials are required to initiate proceedings to discipline or terminate a teacher whenever a member of the board of education, superintendent, or other administrator has evidence of "conduct that the

administrator believes may lead to a recommendation for the dismissal or nonreemployment of the teacher.” See 70 O.S. § 6-101.24.

4. Here, Respondents have been informed that Myers has engaged in “mental or physical abuse to a child” and acts of “moral turpitude.” See 70 O.S. § 6-101.22.⁶ And, as such, immediate termination is necessary. See *Hill v. Independent School Dist. No. 25 of Adair County*, 57 P.3d 882 (2002) (“It is well-settled that career teachers who are found to have committed acts demonstrating moral turpitude are *not* entitled to the admonishment and reasonable time for improvement provided for in 70 O.S.2001 § 6–101.24.”) (citing *House v. Independent Sch. Dist. I–29 of Muskogee County*, 1997 OK 35, ¶ 16, 939 P.2d 1127, 1131). “While teachers who have *remediable* teaching performance problems that could result in dismissal for willful neglect of duty are entitled to admonishment, those whose dismissals are based on specific, *irremediable* instances of misconduct are not.” See *Harjo v. Board of Ed. of Ind. Sch. Dist. No. 7*, 1999 OK CIV APP 35, 976 P.2d 1096 (a probationary teacher who was terminated for misconduct including altercations with parents, breach of student confidentiality, use of profane, sexist language, and intimidation of both faculty and students was not entitled to an admonishment and time for improvement because his dismissal was based on misconduct, not teaching problems).

5. The administrators at KPS admit they have enough evidence to terminate Myers. For example, Superintendent Glover—the current superintendent of KPS—testified under oath that, based on the evidence available to the school, the environment in the Kingfisher football program is “toxic” and “dangerous,” and such evidence is sufficient to pursue termination of

⁶ “Moral turpitude broadly defined is any conduct contrary to justice, honesty, and good morals. Moral turpitude implies something immoral in itself regardless of whether it is punishable by law. The doing of the act itself, and not its prohibition by statute determines the moral turpitude.” *Kelley v. City of Tulsa*, 1977 OK 160, ¶ 5, 569 P.2d 455, 457.

Myers's employment. (App. 102, 194). Don Scales, KPS Superintendent from 2008–2011 and a professional with over 45 years of experience in Oklahoma public schools, testified that there were grounds to fire the entire Kingfisher football staff. (App. 215-29). And a former Kingfisher School Board member, Jim Perdue, said that he thought Myers should go to jail for what has happened in his football program. (App. 242). Yet, KPS has allowed Myers to remain. Indeed, one KPS Board member even testified that it would likely take a decision by a jury in a federal lawsuit before the Board would commit to firing Myers. (App. 231). Respondents' conduct is in direct violation of their mandatory duty to protect our students from abuse. Thus, mandamus relief is warranted.

6. The State Board of Education is similarly charged with protecting the health and safety of Oklahoma's public-school students. *See* 70 O.S. § 3-104(A). Among its responsibilities is evaluating a school district annually for compliance with health and safety accreditation metrics, 70 O.S. § 3-104.4. Where a school district is found wanting, Oklahoma law gives the State Board the authority to annex, deny accreditation, place on probation, and take any other necessary action on the operation of the school district. *See* 70 O.S. §§ 1-105; 3-104(13); *see also Western Heights ISD*, 2022 OK 79, ¶ 76, 518 P.3d at 553; 70 O.S. §3-104(20). As such, in circumstances where a school district fails to comply with its legal obligations—as has happened in Kingfisher—the State Board has the power to step in and do what must be done.

7. Petitioners sent a letter to OSDE on January 17, 2022, detailing the abuse in the KPS football program and pleading that OSDE do something to help protect the children in Kingfisher. (App. 347-55). OSDE says it opened an investigation later that spring. *Id.* But, since then—over a year later—there is no indication that OSDE has done anything to address the obvious dangers in KPS.

8. Accordingly, Petitioners seek emergency relief in the form of a writ of mandamus compelling the KPS School District to initiate the termination process against Myers outlined in 70 O.S. §§ 6–101.20 *et seq.* And in the event the School District takes the position that it cannot—or *will not*—take steps to terminate Coach Myers’s employment, Petitioners ask that the Court direct the State Board of Education to exercise its authority under 70 O.S. §§ 1-105 and 3-104, take over this function on behalf of KPS, implement an interim superintendent, and oversee the termination process outlined in 70 O.S. §§ 6–101.20 *et seq.*

9. This action is brought in the Oklahoma Supreme Court because the Oklahoma Supreme Court has general superintending control over all inferior courts, agencies, commissions, and boards created by law. Okla. Const. Art. 7, § 4. In that regard, the Oklahoma Supreme Court has the power to issue, hear and determine writs of habeas corpus, mandamus, quo warranto, certiorari, prohibition, and other remedial writs authorized by law. *Id.* The Oklahoma Constitution gives the Supreme Court the authority to determine jurisdiction and that determination is final. *Okla. Call for Reproductive Justice v. Drummond*, 2023 OK 24, ¶ 2, 526 P.3d 1123.

10. This case is *publici juris*, worthy of this Court’s special attention. *State v. Lyon*, 1917 OK 220, ¶ 3, 165 P. 419; *see also Edmonson v. Pearce*, 2004 OK 23 ¶¶ 11-12, 91 P.3d 605. At stake here is the health and safety of Oklahoma’s public-school children, who in Kingfisher have, for decades, been subjected first to the tyranny of Coach Myers, and second, to the deliberate indifference of those school administrators whose explicit and mandatory responsibilities are to protect them. Moreover, Petitioners have no other, much less adequate, remedy at law. As described more fully in Petitioners’ brief in support, Petitioners and other parents like them have attempted for years to persuade the KPS School Board to intervene and remove Myers from his position. Their pleas have been met with silence and indifference. Intervention from this Court is

now necessary to protect the mental and physical wellbeing of KPS students. *Cf. Kelley v. Kelley*, 2007 OK 100 ¶ 2, 175 P.3d 400 (exercising original jurisdiction where necessary to protect fundamental rights of parents); *Baby F. v. Okla. Cty. Dist. Ct.*, 2015 OK 24, ¶ 23, 348 P.3d 1080 (exercising original jurisdiction to enforce State’s right to protect its infant citizens from harm).

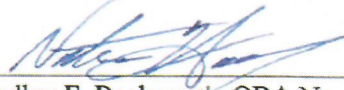
11. As set forth in Petitioners’ accompanying brief in support, an abundance of evidence shows that Myers presents a clear and present danger to the health and safety of the minor children at Kingfisher High. *Someone* must do something to protect KPS students.

* * *

Our oldest son suffered horrible abuse under the Meyers regime. He fought back by filing a lawsuit against Meyers and KPS in federal court, which is set for trial in December. But that case does not resolve the threat posed to our youngest child and all the other children enrolled with him at KPS. Those students face an imminent, ongoing threat of harm and abuse each and every day that KPS and state administrations fail to act. It is through *this* action in *this* Court that the ongoing threat to our children can and should be removed.

WHEREFORE, the Court should assume original jurisdiction and grant the requested writ of mandamus, directing the KPS School Board to comply with their mandatory duty to terminate Myers for his actions, which constitute “mental or physical abuse to a child” and acts of “moral turpitude.” *See* 70 O.S. § 6-101.22. Alternatively, the Court should issue a writ of mandamus, directing the SBOE to exercise its authority under 70 O.S. §§ 1-105 and 3-104, implement an interim superintendent, and oversee the termination process in accordance with the SBOE’s mandatory duty to ensure “the health and safety of school children and school personnel while under the jurisdiction of school authorities.” 70 O.S. § 3-104(A).

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2023, a true and correct copy of the foregoing document was served by U.S. Mail, postage prepaid, to:

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