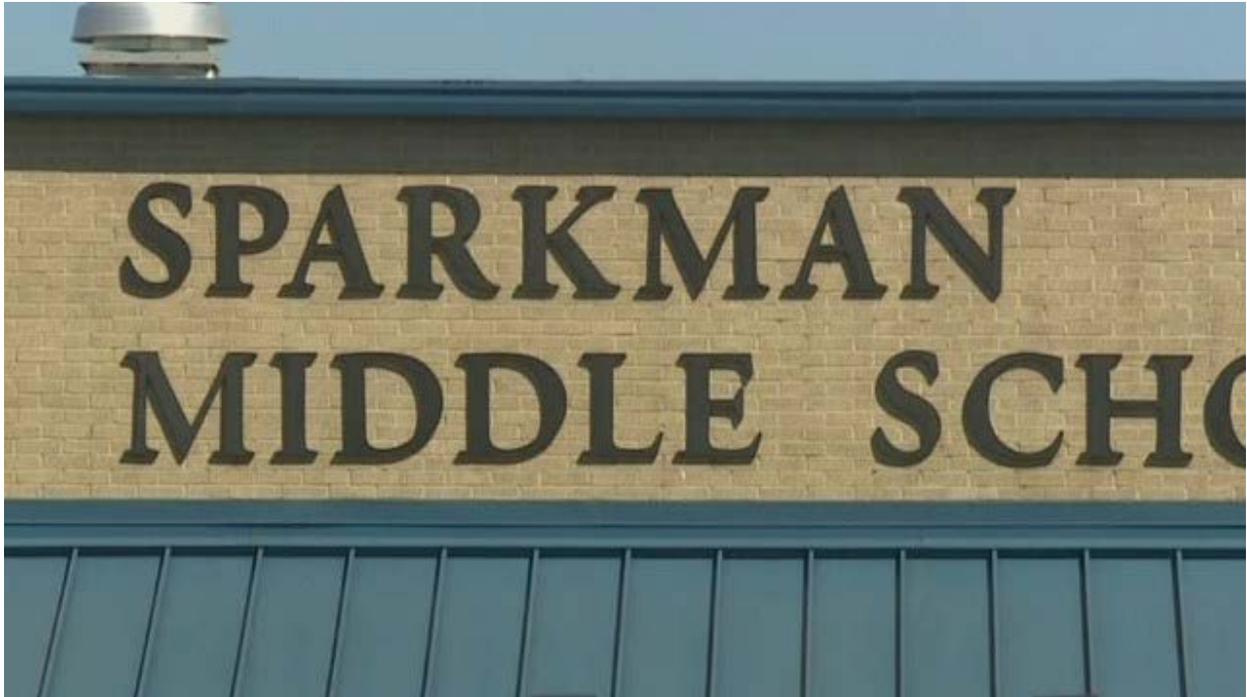


# Alabama 'rape bait' case heard in federal appeals court

By Victor Blackwell and Stephanie Gallman, CNN

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## Story highlights

- Oral arguments heard in the case of a then-14-year-old used as 'rape bait'
- Case has been in legal battle since 2010
- Alleged victim wants lawsuit to be heard by civil jury

Atlanta (CNN)—An Alabama girl who said she was persuaded by a teacher's aide to act as bait to catch an accused sexual predator finally had her case heard in a federal court, more than five years after the alleged incident.

According to the girl, who asked CNN to call her "Jaden," a fellow student sodomized her in a school bathroom. She was 14 at the time.

Arguments, presented Tuesday to a panel of three judges for the U.S. Court of Appeals for the Eleventh Circuit, were the latest legal step taken in an ongoing legal battle that started in 2010, when Jaden's father filed a lawsuit against Madison County Schools and its officials.

The case has made its way through the court system since then.

Neither Jaden, nor her father, were present for Tuesday's proceedings, but representatives from the Department of Justice and the Women's Law Project appeared alongside Jaden's legal team in hopes to persuade the court to take another look at the case. Both organizations, along with The National Women's Law Center filed briefs last year on Jaden's behalf, asking for her case to be heard by a jury.

Jaden's attorneys argue that Sparkman Middle School administrators Ronnie Blair, Teresa Terrell and Jeanne Dunaway knew that Jaden's alleged attacker had a "history of sexual and violent misconduct" and failed to "adequately supervise" him. Their negligence, according to court documents, shows "deliberate indifference" to the danger and put them in violation of Title IX.

Title IX is a federal law aimed at ending sexual discrimination in education. In part, it dictates how schools that receive federal funds must respond to claims of sexual harassment.

"If Title IX imposes any responsibility on school officials to prevent sexual harassment, it surely requires a response when they learn, as here, that a 14-year-old special needs student is about to be used as bait to catch a 16-year-old student with an extensive history of sexual and violent misconduct," attorneys for Jaden wrote.

Mark Boardman, who represents Madison County Schools and the administrators named in the 2010 lawsuit, cited a ruling by a previous judge in the case that "the school administrators took appropriate action and complied completely with federal law as soon as they were notified of this unfortunate incident."

Key questions in the case center around who knew what, and when about the school incident.

According to court records, the 16-year-old student approached Jaden in the hallway on January 22, 2010, and asked her to meet him in a bathroom for sex.

It was not the first time the boy had propositioned her, said Jaden, who was enrolled in the school's special education program.

Usually, she ignored him, but on that day Jaden told a teacher's aide, June Ann Simpson. According to the lawsuit, Simpson knew of other girls whom the boy had tried to lure into a bathroom for sex. Simpson told the school's principal, Blair, about the allegations.

According to a 2012 deposition, Blair told Simpson the boy would have to be proven guilty to be punished. In response, Simpson crafted a plan to prove the allegations, using Jaden as bait.

The idea was to have the girl agree to meet the boy in a bathroom. Simpson would watch surveillance video, and teachers would intervene before anything happened.

Attorneys for the school board claim that administrators took claims of the student's alleged harassment seriously, putting him into "In School Suspension" for 20 days before the incident with Jaden and that they knew nothing about Simpson's alleged plan.

Jaden and Simpson claim they went to the office of Vice Principal Jeanne Dunaway, and when Simpson told Dunaway about the plan, she said, Dunaway did not respond. During a deposition, Dunaway denied the conversation happened.

Jaden then left Dunaway's office and found the boy in the hallway to tell him they could "do it," Jaden told CNN.

Simpson stayed behind to watch surveillance monitors, hoping to catch the two walk into the bathroom. She never saw them.

According to Jaden's written statement after the incident, the boy made a last-minute change to go into a different bathroom.

Once there, Jaden says she tried to stall the boy, even telling him she'd changed her mind and didn't want to do it, hoping a teacher would rush in. The boy sodomized her, Jaden said.

June Ann Simpson resigned shortly after the incident, and is not named as a defendant in the case. Blair and Terrell kept their jobs as principal and assistant principal at Sparkman. Dunaway was promoted and is now the principal at nearby Madison County Elementary School.

The alleged attacker was never charged.

Boardman, the attorney for the schools, said officials allowed Jaden to return to class as normal, therefore not interfering with her ability to earn an education.

In 2013, a district court judge agreed, tossing the federal claims that the school district violated Title IX and that Simpson and school administrators deprived the girl of her civil rights. The judge allowed the father's claims of state violations, including negligence, against Simpson and Dunaway.

Both sides appealed that ruling, resulting in the oral arguments Tuesday in Atlanta.

When questioned by judges Tuesday, Boardman admitted that school officials never offered Jaden any kind of counseling after the incident.

Moreover, the incident was characterized as "inappropriate (sic) touching a girl in boys bathroom," according to school disciplinary records. The boy was suspended from school for five days and sent to an alternative school for a short time.

The firm has not responded to numerous calls from CNN for an interview. Boardman, Dunaway and Blair did not make themselves available following Tuesday's court proceedings.

The 11th Circuit is now "on its own schedule" to decide whether the case will move forward to a jury, according to Eric Artrip, the attorney representing Jaden and her father.

"That's what this young lady has always wanted," he said. "A day in front of a jury."