

Justice Department sides with 14-year-old girl raped while serving as 'bait' in middle school sting



Sparkman Middle School in Toney, Ala.



By Challen Stephens | cstephens@al.com

on September 17, 2014 at 8:21 PM, updated December 30, 2014 at 12:11 PM

HUNTSVILLE, Alabama -- The federal government today sided with the guardian of a teenage girl who was raped during a botched sting operation in the boy's bathroom, arguing the Madison County School system was liable under federal law to investigate harassment and protect female students.

"A school board cannot avoid summary judgment as a matter of law when a school administrator willfully ignores a plan to use a 14-year-old special needs student as bait to catch a student with a known history of sexual and violent misconduct, and as a result, the student is sodomized," reads the federal brief filed in the 11th Circuit Court of Appeals late today.

The U.S. Department of Justice argues administrators at Sparkman Middle School near Huntsville knew the boy was dangerous and showed "deliberate indifference."

"According to Principal (Ronnie) Blair," reads today's brief, "June Simpson, a teacher's aide, reported that for several weeks, (a 16-year-old boy) had repeatedly been trying to get girls into the boys' bathroom and in fact had sex with a student in the bathroom on the special needs students' corridor."

Blair rejected the aide's recommendation that the boy be constantly watched, "and told Simpson that (the boy) could not be punished because he had not been 'caught in the act,' short-hand for the school's policy that students could not be disciplined without substantiation of student-on-student misconduct."

The brief states the teaching assistant then devised a plan to use the girl as bait.

"On January 22, 2010, while assisting custodians near the end of the day, (the 16-year-old boy) approached (the 14-year-old girl), who had already rebuffed his recent, repeated propositions to meet in the boys' bathroom for sex," reads the federal **amicus brief** filed late today.

"(The girl) immediately reported the incident to Simpson, a teacher's aide, who suggested that (the girl) meet (the boy) in the bathroom where teachers could be positioned to catch him 'in the act' before anything happened. (The girl) initially refused, but then acquiesced."

The federal brief highlights, over several paragraphs, the boy's history of sexual aggression and violence. He hit a student in 2008 and was given in-school suspension. In February of 2009, he was suspended for "sexual harassment." In April of 2009, he received in-school suspension for disrespecting a teacher. In September of 2009, he offered to pay another student to beat up a girl and was suspended.

In October of 2009, he told off the bus driver and touched a girl. He was put off the bus for 10 days and given three days in-school suspension. In November of 2009, he groped a girl on the

bus and was suspended from the bus for 24 days. In December, he was suspended two days for "kissing."

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On Jan. 13, 2010, he got in trouble again for "inappropriate touching" of a female student.

"Finding no eyewitnesses to corroborate the victim's accusation, they concluded that (the boy) was not guilty but nonetheless discussed punishment." Administrators assigned him to in-school suspension and clean-up duty. The rape occurred nine days later.

The Justice Department says Simpson had alerted the administration of her plan.

"Simpson and (the girl) then went to Vice-Principal (Jeanne) Dunaway's office, where Simpson told Dunaway about her plan to use (the girl) as bait to catch (the boy). Dunaway did not respond with any advice or directive," reads today's brief.

"(The girl) left Dunaway's office, found (the boy) in the hallway, and agreed to meet him for sex. (The boy) told (the girl) to go to the sixth grade boys' bathroom and she complied. No teachers were in the bathroom to intervene, and (the boy) sodomized (the girl)."

Simpson and Dunaway are among those named in the **suit first filed in 2010**. The district court allowed some state claims for negligence and wantonness. The district court threw out the federal claims, including those against the Madison County school board. Both sides appealed to Circuit Court.

"We're grateful that the Department of Justice has gotten involved," said Eric Artrip, attorney for the girl and her father. "It's important for us to have people with their credibility standing up and saying this is clearly a violation of Title IX."

The Justice Department argued that the school shredded student discipline records each year, required officials to witness sexual harassment in order to take action, diminished serious incidents in its record-keeping, and had been "closing its eyes" to evident dangers.

The Justice Department argues the girl's guardian should be allowed to sue under Title IX. "It makes a recipient of federal funds, here, the school district, 'liable for [its] deliberate indifference to known acts of peer sexual harassment.'"

Medical evidence confirmed anal tearing and bruising. The girl withdrew from school and moved to another state.

The federal brief argues school officials minimized the incident, listing it in the boy's extensive record as "inappropriate touching." The federal attorneys note one assistant principal, despite seeing photos of the injuries, contended school officials could not know if the girl had consented. "Vice-Principal Dunaway testified that (the girl) was responsible for herself once she entered the bathroom," wrote federal attorneys.

Following a five-day suspension, the boy was sent to an alternative school, but soon returned to Sparkman Middle, writes the Justice Department.

The brief contends "...a jury could easily conclude that the school acted with deliberate indifference when, despite two sexual misconduct complaints against (the boy) days before he sodomized (the girl), it provided him unsupervised access to students and failed to protect (the girl)."

"In fact, Sparkman's practice of recording unrevealing and misleading descriptions of past incidents, coupled with its failure to maintain any record of unsubstantiated complaints and documentation for proven infractions beyond the current academic year, amounts to intentionally closing its eyes to (the boy's) dangerousness."

Updated at 11:10 a.m. on Sept. 18 with comment from girl's attorney.