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News of the week

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Student Alleges Assault By School Staff Over Graffiti

DOE Calls Arrest Mistake
By DAVID SIMS



ALEXA GONZALEZ: Alleges a disproportionate ordeal.

A 12-year-old student who was handcuffed and perp-walked from her school to a police precinct after doodling on a desk is suing the city for \$1 million, saying that a Teacher, an Assistant Principal and two School Safety Agents illegally assaulted and arrested her without probable cause.

Alexa Gonzalez, a student at J.H.S. 190 in Queens, wrote, "I love my friends Abby and Faith" on a school desk Feb. 1, using a "water soluble, erasable marker," according to the notice of claim her lawyer Joseph S. Rosenthal filed March 24.

Dragged From Her Class

After a Teacher discovered the writing an hour later, she physically dragged Alexa out of another classroom along with an Assistant Principal of the school, taking her to the Dean's office, where two School Safety Agents were summoned.

The agents then searched Ms. Gonzalez's purse, found the marker she used to write the graffiti, then subjected her to a pat-down search, placing their hands in her pockets and telling her she would be arrested for graffiti. "They made her take her shoes off. The poor girl was hysterical — she thought they were going to strip-search her," Mr. Rosenthal said in a phone interview.

The School Safety Agents called the police, and two Police Officers handcuffed Ms. Gonzalez and marched her across the street to the 112th Precinct, in front of her classmates and Teachers, he asserted. She was handcuffed to a pole in an isolated room for 2½ hours; her mother was turned away when she first tried to get her daughter.

"It's a very simple discipline problem," Mr. Rosenthal said. "The Teachers should have given her detention, told her to wash the desk, wash everybody else's desk. But you don't put her in handcuffs. . . 99 percent of Teachers are dedicated people. This Teacher should have dealt with this herself."

Erasibility Reduces Offense

He also charged that the School Safety Agents and Police Officers had misunderstood the law. Upon recovering the marker, they should have realized that it was erasable and Ms. Gonzalez's writing did not constitute graffiti, which must be an indelible mark that does \$250 worth of property damage, Mr. Rosenthal argued.

"The critical error was the School Safety Officers who did not recognize there had been no violation," he said. "And policemen, of all people, should know what the hell the law is before they arrest somebody and handcuff them to a pole."

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Teamsters Local 237 President Gregory Floyd, who represents School Safety personnel, countered that it was the pedagogical staff who had acted incorrectly by bringing Ms. Gonzalez to his members.

“The School Safety Agents did not know what was going on and they just did the normal procedure, thinking the child just did something terribly wrong, and they were going to arrest the child,” he said in a phone interview. “The Teachers and Assistant Principal have to answer for their actions.”

‘No Time to Ask Questions’

When asked if School Safety Agents should give special attention to cases involving pre-teen students before arresting them or calling the police, he said, “When something is going on, you don’t have time to start questioning what happened, the particulars, you have to take action, and everything has to be done at that moment.”

The city’s lawyers “are aware of the legal filing and are evaluating the matter,” said Law Department spokeswoman Elizabeth Thomas in a statement.

‘Principal Made a Mistake’

The Department of Education initially acknowledged in a statement that “based on what we’ve seen so far, this shouldn’t have happened,” and added the next day, “The Principal made a mistake and has lifted the suspension, and the student is returning to class. The Principal also is reaching out to the parent.”

Mr. Rosenthal said that the city had settled similar cases for small amounts of money, but that he would refuse to settle “if they don’t come up with a sufficient amount of money and give it a sufficient amount of publicity.”

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