

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION

NIYA KENNY; TAUREAN NESMITH; GIRLS  
ROCK CHARLESTON, INC.; D.S., by and through  
her next of kin Juanita Ford, and S.P., by and through  
her next of kin Melissa Downs, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

ALAN WILSON in his official capacity as Attorney  
General of South Carolina; J. ALTON CANNON,  
JR. in his official capacity as the Sheriff of  
Charleston County, SC; GREGORY MULLEN in  
his official capacity as the Chief of the Police  
Department of the City of Charleston, SC; EDDIE  
DRIGGERS JR., in his official capacity as the Chief  
of the Police Department of the City of North  
Charleston, SC; CARL RITCHIE in his official  
capacity as the Chief of the Police Department of the  
City of Mt. Pleasant, SC; LEON LOTT in his  
official capacity as the Sheriff of Richland County,  
SC; W.H. HOLBROOK in his official capacity as  
the Chief of the Police Department of the City of  
Columbia, SC; STEVE LOFTIS in his official  
capacity as the Sheriff of Greenville County, SC;  
KEN MILLER in his official capacity as the Chief  
of the Police Department of the City of Greenville,  
SC; LANCE CROWE in his official capacity as the  
Chief of the Police Department of the City of  
Travelers Rest, SC; MICHAEL D. HANSHAW in  
his official capacity as Interim Chief of the Police  
Department of the City of Simpsonville, SC; M.  
BRYAN TURNER in his official capacity as the  
Chief of the Police Department of the City of  
Mauldin, SC; DAN REYNOLDS in his official  
capacity as the Chief of the Police Department of the  
City of Greer, SC; A. KEITH MORTON in his  
official capacity as the Chief of the Police  
Department of the City of Fountain Inn, SC; on  
behalf of themselves and others similarly situated,

Defendants.

CASE NUMBER: 2:16-cv-02794-MBS

CONSENT ORDER AS TO MOTIONS TO  
DISMISS OF LAW ENFORCEMENT  
DEFENDANTS AND PLAINTIFFS' MOTION  
FOR DEFENDANT CLASS CERTIFICATION



Before the Court are the Plaintiffs Niya Kenny; Taurean Nesmith; Carolina Youth Action Project formerly known as Girls Rock, Inc.; D.S., by and through her next of kin Juanita Ford, and S.P., by and through her next of kin Melissa Downs (collectively, hereinafter, “Plaintiffs”), and Defendants J. Alton Cannon, Luther Reynolds, Reginald Burgess, Carl Ritchie, Leon Lott, W.H. Holbrook, Johnny Mack Brown, Ken Miller, Lance Crowe, Michael D. Hanshaw, M. Bryan Turner, and A. Keith Morton (collectively, hereinafter, “Law Enforcement Defendants”), by and through their undersigned respective counsel. The following agreement is entered into by counsel for the parties. The basis for this agreement is as follows:

1. Defendant Wilson, in his official capacity as Attorney General of South Carolina, concedes that where Plaintiffs have established an injury conferring standing, that injury meets the requirements of Article III standing as to traceability and redressability. Subject to the opinion of the Court of Appeals, Defendant Wilson reserves all other arguments including injury.
2. The Law Enforcement Defendants acknowledge service of process in their official capacities as parties to this litigation. It is acknowledged that the Law Enforcement Defendants have a duty to enforce the law. However, the Law Enforcement Defendants do not control the state legislature and the statutes at issue in this case are state statutes.
3. The Plaintiffs and the Defendants both understand that there is currently a bill in the S.C. Legislature which, if passed, will make changes to the current Disturbing Schools law.
4. The Plaintiffs agree to stay all proceedings against the Law Enforcement Defendants and the Law Enforcement Defendants agree to abide by any order or other precedent of this Court and the United States Court of Appeals for the Fourth Circuit regarding the

constitutionality of S.C. Code Ann. §§ 16-17-420 and 16-17-530, and their enforceability, including, but not limited to, any form of injunctive relief.

5. The Plaintiffs agree that the Law Enforcement Defendants shall not be obligated to further defend this action or to file any further responsive pleadings.
6. This agreement shall encompass any Law Enforcement officers, agencies or departments that the Plaintiffs may later try to add as parties.
7. The Law Enforcement Defendants withdraw all pending renewed motions to dismiss and all objections to Plaintiff Class Certification.
8. Plaintiffs withdraw their Motion for Defendant Class Certification.
9. Plaintiffs agree to dismiss all claims against Law Enforcement Defendants with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) upon a final judgment on claims against remaining Defendants and following any appeal, which Plaintiffs reserve the right to make.
10. The Plaintiffs agree that if they prevail in this litigation they will attempt to seek attorneys' fees and costs under 42 U.S.C. § 1988 only against defendants other than the Law Enforcement Defendants and will not seek any fees or costs relating to this litigation from Law Enforcement Defendants. The Law Enforcement Defendants agree they will not attempt to seek attorneys' fees or costs relating to this litigation from Plaintiffs, and further agree that any motions for attorneys' fees now pending in the District Court shall be withdrawn. It is agreed that between the plaintiffs and the Law Enforcement Defendants, each party shall bear its own costs.

WHEREFORE, IT IS HEREBY ORDERED THAT this action shall now be STAYED as to the Law Enforcement Defendants, and all parties to this litigation consent to the stay.

/s/ Margaret B. Seymour  
Honorable Margaret B. Seymour  
Senior United States District Court Judge

Dated: May 14, 2018  
Charleston, South Carolina

WE SO AGREE:

S/ Susan K. Dunn

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