

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

OWEN MARFIA,	:	NO.
<i>Plaintiff,</i>	:	
	:	
v.	:	CIVIL ACTION
	:	
GETTYSBURG AREA SCHOOL	:	
DISTRICT, ADAMS COUNTY,	:	JURY TRIAL DEMANDED
and VINCENT MARFIA,	:	
	:	
<i>Defendants.</i>	:	

COMPLAINT

AND NOW, comes the Plaintiff, Owen Marfia, through counsel, who files this Complaint against the Defendants, Gettysburg Area School District, Adams County, and Vincent Marfia, and on Plaintiff's own knowledge, and otherwise upon information and belief, Plaintiff avers as follows:

INTRODUCTION

1. This matter arises from the childhood sexual abuse of Owen Marfia, by former employee of CYS and GASD and Owen's adoptive father.

PARTIES

2. The Plaintiff, Owen Marfia, is an adult male that resides in Pennsylvania who, at all times relevant to this litigation, was a minor child.

3. At all times relevant, Owen's legal name was "Owen Merryman."

4. Defendant Gettysburg Area School District (“**GASD**”) is a Pennsylvania public school district with an address of 900 Biglerville Road, Gettysburg, Adams County, Pennsylvania 17325, and which is located within this District.

5. At all times relevant, GASD was a public school district receiving federal funding.

6. At all times relevant, GASD was acting by and through its agents, employees, and assigns who were acting within the scope of their authority, course of their employment, and under the direct control of GASD.

7. Defendant Adams County (“**County**”) is a Pennsylvania local government agency with an address of 117 Baltimore Street, Gettysburg, Adams County, Pennsylvania 17325, and which is located within this District.

8. At all times relevant, the County operated a department known as “Children and Youth Services” (“**CYS**”).

9. At all times relevant, CYS was acting by and through its agents, employees, and assigns who were acting within the scope of their authority, course of their employment, and under the direct control of CYS.

10. Defendant Vincent Marfia (“**Marfia**”) is an adult individual who, upon information and belief, resides at 456 Mehring Road, Littlestown, Adams County, Pennsylvania 17340, and who is located within this District.

11. At all times relevant, Marfia was a schoolteacher for GASD.

12. Marfia is also a former employee of CYS.

JURISDICTION AND VENUE

13. This Court has jurisdiction over Count I pursuant to 28 U.S.C. § 1331, which gives U.S. district courts jurisdiction over civil actions arising under the laws of the United States, including Title IX of the Educational Amendments of 1972, 20 U.S.C. § 1681(a).

14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), since all parties reside in this District and the events giving rise to the claims occurred in this District.

FACTS

Marfia's inappropriate behavior with children while a CYS employee

15. Marfia began working for County CYS after graduating college.

16. While working at CYS, Marfia began demonstrating inappropriate behavior with the children and families with whom Marfia worked.

17. Specifically, Marfia was spending an excessive amount of time outside of work hours with the children, and specifically the young males, under CYS supervision.

18. Marfia would spend the night with the families he encountered while working with CYS.

19. Marfia would give certain children special treatment, especially outside of work hours, including buying them snacks and games, and take them on outings.

20. Marfia would bring the children, mostly young males, that he was supervising home to his house, spend the night with them, and bathe them alone.

21. Upon information and belief, Marfia was released from employment with CYS due, at least in part, to his inappropriate behavior towards young male children.

Marfia's inappropriate behavior with children while a GASD employee

22. Marfia was a teacher with GASD beginning in about 2001, prior to meeting Owen.

23. Marfia's employment with GASD continued until 2021, long after the sexual abuse of Owen ended.

24. Despite Marfia's inappropriate contact with children at his former job with CYS, GASD hired Marfia as a schoolteacher.

25. Marfia developed a reputation within GASD and amongst GASD staff for paying an inappropriate amount of attention to his "favorite" young male students.

26. Marfia also had a reputation for taking young boys from "rough situations" under his wing.

27. Marfia was known to have physical contact with his students, including hugging them and patting them on the back, even giving students hugs as “rewards.”

28. GASD employees found Marfia’s behavior concerning as teachers were not supposed to physically engage with students.

29. GASD employees observed Marfia to be “a little too friendly” with his very young male students.

30. GASD employees, including GASD administrators with the authority to take corrective action, knew Marfia invited boys to Marfia’s house to play games, took his “favorites” to “Devil’s Den” to play games like capture the flag, and even had students sleep overnight at his house.

31. Marfia strategically placed the desks of his “favorites” around his desk in the classroom, even with some of the desks touching his own.

32. Marfia allowed his favorite male students to sit at his own desk with him.

33. Prior to Owen’s sexual abuse, it was even noted in Marfia’s employee file that GASD “commended” Marfia for his involvement with students “both in school and out of school.

34. It was also noted, prior to Owen's sexual abuse, that a school employee tasked with supervising the classrooms observed "the students were gathered around [Marfia] in close proximity" in the classroom.

35. Other parents and teachers complained to GASD supervisors about Marfia's inappropriate conduct with young male students entrusted to the care of GASD.

36. Despite such concerns, GASD allowed Marfia to continue teaching at GASD, having unlimited access to not only his own young male students, but other GASD students, including Owen.

37. GASD employees, including GASD administrators with the authority to take corrective action, were aware of Marfia's behavior as described herein.

38. GASD showed deliberate indifference to Marfia's sexual grooming and inappropriate behavior towards GASD students, even after being appropriately warned and having actual notice thereof.

Owen first meets Marfia and sexual grooming begins

39. Owen met Marfia due to Marfia's role as a GASD school teacher.

40. At the time, Owen was in about 2nd grade, or the 2008 to 2009 school year in GASD elementary school.

41. At this time, Marfia was a teacher in the GASD middle school.

42. When Owen first met Marfia, Owen's father was in jail.

43. When Owen first met Marfia, Marfia was a teacher for Owen's older brother, who was also a GASD student.

44. Owen's brother was one of Marfia's "favorites" and placed Owen's brother's desk close to Marfia's.

45. Marfia was aware that Owen and his siblings were from a "rough situation," and that Owen did not have a father figure at home.

46. Marfia thus began taking Owen and his siblings to visit him at his home at night and on the weekends.

47. Often, Marfia would take the children directly from their respective GASD schools and remove them to his home during or after the school day.

48. Marfia had multiple children living in his house, including his own biological children, foster children, adoptive children, and children who simply ended up staying there.

49. Owen's stepmother and guardian trusted Marfia as he was a GASD teacher and thought Marfia was acting out of the goodness of his heart to help her stepchildren.

50. Soon thereafter, Owen began spending time after school and on the weekends at Marfia's house as well, even spending the night.

51. Marfia preyed on Owen as he was a troubled young boy who was in desperate need for a male authority figure in his life.

52. Due to a troubled home life, Marfia arranged for Owen to reside with him, his wife, and other children.

53. Marfia began to treat Owen as if he was Marfia's own son.

54. Marfia started to groom Owen for sexual abuse when he was in 2nd grade, and still a student at GASD.

55. Marfia's behavior included giving Owen toys, praising him, and giving him an excessive amount of attention.

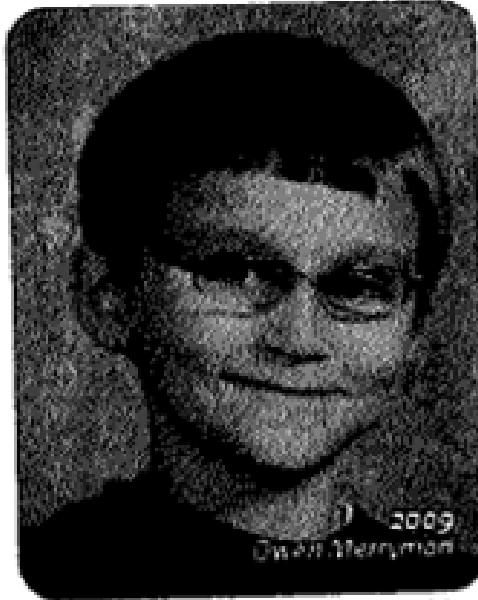
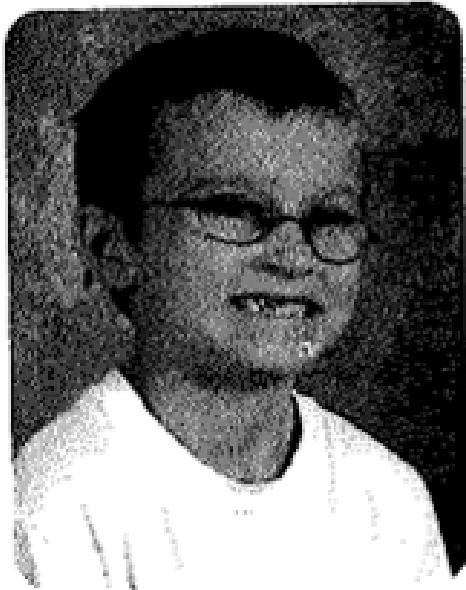
56. The grooming escalated to Marfia sleeping in Owen's bed, sometimes hugging, or embracing Owen while they slept.

57. Marfia would take Owen to the shower and personally bathe and touch Owen's naked body.

58. Marfia would make several boys in the house shower together and he would bathe each of them personally, from youngest to oldest, while they all stood naked together in the shower.

59. Marfia would bathe Owen last so that he could isolate Owen alone in the bathroom.

60. Below are photos of Owen at the time that he first met Marfia and Marfia began grooming Owen for sexual abuse, in 2nd and 3rd grade in the GASD:



61. Owen began spending more nights during the week with Marfia.
62. Marfia encouraged Owen to call him “dad” almost immediately upon Owen first spending overnights with Marfia.
63. By Owen’s 3rd grade year at GASD, he was spending most nights with Marfia, despite Marfia not being his legal guardian.
64. Marfia would go to Owen’s 3rd grade class to pick up Owen and take him to Marfia’s GASD middle school classroom to spend time with Marfia; sometimes, this would even be in the middle of the school day.
65. Marfia openly spent excessive amounts of time with Owen within GASD properties, despite not being Owen’s teacher nor Owen’s guardian.

Sexual abuse of Owen by Marfia

66. Marfia formally became Owen's legal guardian in or about 2010 when Owen was in 4th grade and approximately 10 years old.

67. Marfia formally adopted Owen in or about April of 2013.

68. When Marfia became Owen's legal guardian, Marfia moved Owen from the GASD to the Littlestown School District.

69. Marfia's sexualized grooming of Owen progressed to full-on sexual abuse at this time.

70. Marfia's abuse included a variety of sex acts, including Marfia's performing oral sex on Owen routinely from age 10 to age 14.

71. Owen was finally able to stop Marfia's sexual abuse when Owen was 14, as Owen was finally old enough to get away from Marfia's advances.

The role of GASD and CYS in Owen's sexual abuse

72. Prior to Owen's sexual abuse by Marfia, GASD employee(s), volunteer(s), and/or agent(s) became aware of and concerned about Marfia's inappropriate behavior towards other young male students within GASD.

73. Despite such concern(s) by GASD, no meaningful action was taken to protect Owen from Marfia.

74. Prior to Marfia's employment with GASD, CYS employee(s), volunteer(s), and/or agent(s) became aware of and concerned about Marfia's

inappropriate behavior towards young males placed in the custody, care, and/or supervision of CYS.

75. Prior to Marfia's sexual abuse of Owen, CYS was involved with Owen, his siblings, and multiple other children within the Marfia home.

76. Despite such concern(s) by CYS, no meaningful action was taken to protect Owen from Marfia.

77. Before Owen was adopted by Marfia, and Owen's abuse stopped, CYS was provided documents in January 2013 that gave actual notice to CYS that Owen was being sexually abused by Marfia.

78. CYS was specifically informed, for example, that Marfia "inappropriately touched [Owen] while in bed," along with other background on Marfia.

79. CYS did nothing in response; Marfia's adoption of Owen went through, and Owen's sexual abuse continued.

Criminal prosecution of Marfia

80. In 2020, Marfia was charged with sexually abusing Owen.

81. On April 4, 2022, Marfia pled guilty to two counts of corruption of minors. *See Commonwealth v. Vincent Paul Marfia, CP-01-CR-0000049-2021.*

82. Due to the actions and omissions of the Defendants outlined herein, the Plaintiff was sexually abused, suffering injury.

COUNT I
Violation of Title IX
Plaintiff v. Gettysburg Area School District

83. The allegations throughout this Complaint are incorporated as if set forth at length.

84. Title IX of the Educational Amendments of 1972 provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal Financial Assistance. 20 U.S.C. § 1681(a).

85. The United States Supreme Court has held that Title IX encompasses sexual harassment of a student and is enforceable through an implied private right of action for money damages against the school district.

86. GASD received federal funds within the meaning of Title IX.

87. GASD and/or appropriate persons within GASD had actual knowledge of facts indicating substantial danger to Owen and other students within GASD.

88. GASD acted with deliberate indifference to that danger.

89. At all times relevant, GASD owed a duty to Owen to protect him from sexual abuse.

90. Appropriate GASD official(s) with the authority to take corrective measures had actual notice of the abuse and hostile educational environment and responded with deliberate indifference.

91. As a direct and proximate cause of the Defendants' actions and omissions, and breach of the duties of reasonable care, Plaintiff was sexually abused, resulting in damages.

COUNT II
Negligence, Gross Negligence, and Recklessness
Plaintiff v. Gettysburg Area School District

92. The allegations throughout this Complaint are incorporated as if set forth at length.

93. At all times relevant, GASD owed a duty to protect Owen and other children within its care from sexual abuse.

94. Defendant is a local agency under Pennsylvania's Political Subdivision Tort Claims Act ("PSTCA"), 42 Pa.C.S. §§ 8541-8564.

95. Under the PSTCA, a local agency is generally shielded from tort liability for negligent acts, subject to certain exceptions. Plaintiff's claim(s) herein falls under the PSTCA exception enumerated at 42 Pa.C.S. § 8542(b)(9), which states: "Sexual abuse.--Conduct which constitutes an offense enumerated under [42 Pa.C.S. § 5551(7)] (relating to no limitation applicable) if the injuries to the

plaintiff were caused by actions or omissions of the local agency which constitute negligence.”

96. In this case, Plaintiff was subject to a violation of § 5551(7).

97. As such, the Defendant does not have PSTCA immunity in this matter.

98. GASD violated its duty, and was negligent, careless, and/or reckless as follows:

- a. By failing to establish adequate child abuse prevention policies, procedures, and practices;
- b. By failing to make mandatory and adhere (and ensure adherence) to such policies, procedures, and practices;
- c. By failing to adequately screen and supervise all those with access to children, including Marfia;
- d. By failing to retain, hire, train, and supervise agents/employees with regard to the prevention of child sexual abuse;
- e. By failing to adequately monitor and supervise Marfia and Owen;
- f. By failing to know the risks of sexual abuse inherent in youth serving activities;
- g. By failing to require child sex abuse training for parents/guardians and children;
- h. By failing to recognize the signs that Marfia was a child sexual predator;

- i. By failing to conduct an appropriate background check on Marfia;
- j. By allowing Marfia to work with children despite his history of inappropriate behavior with children;
- k. By failing to terminate Marfia from his role despite Marfia's red flags and lack of fitness for the role; and
- l. By violating the duties imposed upon them pursuant to the Restatement of Torts, Second, §§ 314A, 315, 317, 323, 324A, 343, 344 & 371, as adopted in Pennsylvania.

99. As a direct and proximate cause of the Defendants' actions and omissions, and breach of the duties of reasonable care, Plaintiff was sexually abused, resulting in damages.

COUNT III
Negligence, Gross Negligence, and Recklessness
Plaintiff v. Adams County

100. The allegations throughout this Complaint are incorporated as if set forth at length.

101. At all times relevant, the County vis-à-vis CYS owed a duty to protect Owen and other children from sexual abuse.

102. Defendant is a local agency under Pennsylvania's Political Subdivision Tort Claims Act ("PSTCA"), 42 Pa.C.S. §§ 8541-8564.

103. Under the PSTCA, a local agency is generally shielded from tort liability for negligent acts, subject to certain exceptions. Plaintiff's claim(s) herein

falls under the PSTCA exception enumerated at 42 Pa.C.S. § 8542(b)(9), which states: “Sexual abuse.--Conduct which constitutes an offense enumerated under [42 Pa.C.S. § 5551(7)] (relating to no limitation applicable) if the injuries to the plaintiff were caused by actions or omissions of the local agency which constitute negligence.”

104. In this case, Plaintiff was subject to a violation of § 5551(7).

105. As such, the Defendant does not have PSTCA immunity in this matter.

106. The County violated its duty, and was negligent, careless, and/or reckless as follows:

- a. By failing to establish adequate child abuse prevention policies, procedures, and practices;
- b. By failing to make mandatory and adhere (and ensure adherence) to such policies, procedures, and practices;
- c. By failing to adequately screen and supervise all those with access to children, including Marfia;
- d. By failing to retain, hire, train, and supervise agents/employees with regard to the prevention of child sexual abuse;
- e. By failing to adequately monitor and supervise Marfia and Owen;
- f. By failing to know the risks of sexual abuse inherent in youth serving activities;

- g. By failing to require child sex abuse training for parents/guardians and children;
- h. By failing to recognize the signs that Marfia was a child sexual predator;
- i. By failing to conduct an appropriate background check on Marfia;
- j. By allowing Marfia to work with children despite his history of inappropriate behavior with children;
- k. By continuing to allow Marfia to foster, work with, and/or adopt children despite Marfia's red flags and lack of fitness for the role; and
- l. By violating the duties imposed upon them pursuant to the Restatement of Torts, Second, §§ 314A, 315, 317, 323, 324A, 343, 344 & 371, as adopted in Pennsylvania.

107. As a direct and proximate cause of CYS's actions and omissions, and breach of the duties of reasonable care, Owen was sexually abused, resulting in damages.

COUNT IV
Assault and Battery
Plaintiff v. Vincent Marfia

108. The allegations throughout this Complaint are incorporated as if set forth at length.

109. Defendant subjected Plaintiffs to sexual abuse, as described above.

110. The sexual abuse was intended or expected to put Plaintiffs in reasonable and immediate apprehension of harmful or offensive contact.

111. The sexual abuse did in fact put Plaintiffs in reasonable and immediate apprehension of a harmful or offensive contact.

112. The sexual abuse was intended to cause harmful and offensive contact with Plaintiffs' body.

113. The sexual abuse did in fact cause harmful and offensive contact with Plaintiffs' body.

114. As a direct and proximate cause of the assault and battery, Plaintiffs suffered damages.

115. The acts of Defendant were willful, malicious, and in wanton disregard for the safety and well-being of Plaintiffs.

116. As a direct and proximate cause of the Defendants' actions and omissions, and breach of the duties of reasonable care, Plaintiffs were sexually abused, resulting in damages.

COUNT V
Intentional Infliction of Emotional Distress
Plaintiff v. Vincent Marfia

117. The allegations throughout this Complaint are incorporated as if set forth at length.

118. The sexual abuse was intended to cause harmful and offensive contact with Plaintiffs' body.

119. Defendant's sexual abuse of Plaintiffs was extreme and outrageous, and utterly intolerable in a civilized society.

120. As a direct and proximate cause of the Defendants' actions and omissions, and breach of the duties of reasonable care, Plaintiffs were sexually abused, resulting in damages as set forth above.

WHEREFORE, the Plaintiff requests damages against the Defendants, jointly and severally, including attorneys' fees, costs, pre and post judgment interest, and any other such other relief as this Honorable Court deems appropriate,

Respectfully Submitted,

ANDREOZZI + FOOTE

Dated: December 21, 2022

/s/ *Nathaniel L. Foote*

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