

IN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
Civil Division

DISTRICT OF COLUMBIA
a municipal corporation,
441 Fourth Street, N.W.
Washington, D.C. 20001,

Plaintiff,

v.

TWARNISHA PETERSON STOKES
15307 Glastonbury Way
Upper Marlboro, MD 20774

Defendant.

Civil Action No.: 2019 CA 000270 B

JURY TRIAL DEMANDED

FALSE CLAIMS ACT COMPLAINT AND JURY DEMAND

The District of Columbia (District), by its Office of the Attorney General, brings this action against Twarnisha Peterson Stokes (Defendant) pursuant to the District's False Claims Act, D.C. Code § 2-381.02(a), and common law, seeking treble damages and civil penalties. The District alleges as follows:

Jurisdiction

1. This Court has subject matter jurisdiction over this case under D.C. Code § 11-921, as this action is brought by the District, and D.C. Code § 2-381.02(a), as the District asserts claims arising under the District's False Claims Act.

2. This Court has personal jurisdiction over the Defendant pursuant to D.C. Code § 13-423(a)(1) and (3) because Defendant committed acts in the District that are proscribed by the False Claims Act.

Parties

3. Plaintiff, the District of Columbia (District), a municipal corporation empowered to sue and be sued, is the local government for the territory constituting the permanent seat of the government of the United States. The District brings this action by and through its chief legal officer, the Attorney General for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest. D.C. Code § 1-301.81(a)(1). The Attorney General is specifically authorized to enforce the District's False Claims Act, pursuant to D.C. Code § 2-381.03(a).

4. Defendant Twarnisha Peterson Stokes is an individual currently residing at 15307 Glastonbury Way, Upper Marlboro, Maryland 20774.

Defendant's Child

5. Defendant has a son, K.P., who attended Hardy Middle School, a District of Columbia Public Schools (DCPS) school, for the entirety of the 2011-2012 school year. K.P. also attended Wilson High School, a DCPS school, for the entirety of the 2012-2013 and 2013-2014 school years and, for part of the 2014-2015 school year.

6. At all times relevant to the acts described in this Complaint, Defendant and her son, K.P., were residents of the State of Maryland.

District of Columbia False Claims Act

7. The District of Columbia Procurement Reform Amendment Act (the District's False Claims Act) provides for the award of treble damages and civil penalties for, *inter alia*, knowingly making or causing to be made false statements to conceal, avoid, or decrease an obligation to pay money to the District. D.C. Code § 2-381.02(a).

8. The District's False Claim Act was amended in 2013 by the Medicaid Enforcement and Recovery Amendment Act of 2012 (2013 Amendments). 59 D.C. Reg. 13632-41 (2012). The 2013 Amendments became effective on March 19, 2013. 60 D.C. Reg. 9261 (2013).

9. The District's False Claims Act was amended to include the following pertinent provisions:

(a) Any person who commits any of the following acts shall be liable to the District for 3 times the amount of damages which the District sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the District for the costs of a civil action brought to recover penalties or damages, and may be liable to the District for a civil penalty of not less than \$5,500, and not more than \$11,000, for each false or fraudulent claim for which the person:

* * *

(6) Knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the District, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the District. . .

D.C. Code § 2-381.02(a) (2013).

10. The District's False Claims Act defines "[k]nowing" or "knowingly" to mean "[t]hat a person, with respect to information, does any of the following: (i) Has

actual knowledge of the information; (ii) Acts in deliberate ignorance of the truth or falsity of the information; or (iii) Acts in reckless disregard of the truth or falsity of the information.” D.C. Code § 2-381.01(7)(A) (2013). Proof of specific intent to defraud is not required for an act to be knowing. D.C. Code § 2-381.01(7)(B) (2013).

11. The District’s False Claims Act defines “[m]aterial” to mean “having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.” D.C. Code § 2-381.01(8).

12. The District’s False Claims Act defines “obligation” to mean “an established duty, whether or not fixed, arising from . . . statute or regulation, or from the retention of any overpayment.” D.C. Code § 2-381.01(9).

District of Columbia Nonresident Tuition Statute

13. D.C. Code § 38-302(a)(2) requires that nonresident tuition be paid for each child who attends a District public school and does not have a parent, guardian, custodian, or other primary caregiver who resides in the District. *See also* D.C. Code § 38-1800.02(25); 5-A D.C.M.R. §§ 5001.5, 5099.1. Nonresident tuition rates are set by the District’s Office of the State Superintendent of Education to “cover all expenses” incurred by DCPS in educating the student. D.C. Code § 38-302(b).

14. “Nonresident student” means “[a]n individuals under the age of 18 who is enrolled in a District of Columbia public school or public charter school, and does not have a parent, guardian, custodian, or primary care giver . . . residing in the District of Columbia.” D.C. Code § 38-1800.02(25)(A).

15. "Parent" is defined as "a natural parent, stepparent, or parent by adoption who has custody or control of a student, including joint custody." D.C. Code § 38-301(11). "Primary care giver" is defined as "a person other than a parent or court appointed custodian or guardian who is the primary provider of care and support to a child who resides with him or her, and whose parent, custodian or guardian is unable to supply such care or support" D.C. Code § 38-301(10). An individual claiming primary care giver status must submit documentation to the District establishing that the student is in the individual's care and that the individual resides in the District. D.C. Code § 38-310; 5A D.C.M.R. § 5004.1-.2 (2002), *amended by* 64 DCR 3147 (March 31, 2017).

16. Nonresidents are required to pay tuition to enroll nonresident children in District public schools because public funds are appropriated to DCPS for the sole purpose of educating children and youth who are residents of D.C. D.C. Code § 38-2902.

K.P.'s Attendance at DCPS Schools

17. In 2011, K.P. began attending Hardy Middle School, a DCPS school.

18. K.P. attended Hardy Middle School, tuition-free, as if he were a District resident for the entirety of the 2011-2012 school year. During this time, K.P. was living with Defendant in Clinton, Maryland.

19. In 2012, K.P. began attending Wilson High School, a DCPS school.

20. K.P. attended Wilson High School, tuition-free, as if he were a District resident for the entirety of the 2012-2013 school year. During this time, K.P. was living with Defendant in Clinton, Maryland.

Defendant's Failure to Pay Nonresident Tuition Owed for the 2011-2012 and 2012-2013 School Years

21. Nonresident tuition for K.P. to attend Hardy Middle School for the 2011-2012 school year was \$9,213.

22. Nonresident tuition for K.P. to attend Wilson High School for the 2012-2013 school year was \$10,584.

23. The total amount of nonresident tuition for K.P.'s attendance at DCPS schools for the 2011-2012 and 2012-2013 school years, was \$19,797.

24. To date, Defendant has not paid any of the nonresident tuition owed for K.P.'s attendance at DCPS schools for these two school years, nor have any tuition payments been made on her behalf.

Defendant's False Statements to a DCPS School
(2013-2014 School Year)

25. On June 20, 2013, Defendant submitted to DCPS an Enrollment Form to re-enroll K.P. as a student at Wilson High School for the 2013-14 school year. On the Enrollment Form, Defendant stated that she and K.P. lived at 2934 Bellevue Terrace, N.W., Washington, D.C. 20016. Under the "Residency Status" section of the Enrollment Form, Defendant checked the box on the form next to "D.C. Resident (Student and parent or legal guardian live in D.C.)," indicating that she and K.P. were District residents. Under the "Housing Status" section, Defendant checked the box next to "Permanent." Defendant signed the Enrollment Forms, certifying that she

completed the form, that the information on the form was accurate, and that she understood that “providing false information for purposes of defrauding the government is punishable by law.”

26. On June 21, 2013, Defendant signed and submitted a sworn statement of D.C. residency to DCPS, affirming that she lived in the District at 2934 Bellevue Terrace, N.W., Washington, D.C. 20016.

27. On February 25, 2014, Defendant submitted a second Enrollment Form to DCPS to re-enroll K.P. as a student at Wilson High School for the 2013-2014 school year. On this Enrollment Form, Defendant stated that she and K.P. lived at 800 4th Street, S.W., N311, Washington, D.C. 20024. Under the “Residency Status” section of the Enrollment Form, Defendant checked the box on the form next to “D.C. Resident (Student and parent or guardian live in D.C.),” indicating that she and K.P. were District residents. Under the “Housing Status” section, Defendant checked the box next to “Permanent.” Defendant signed the Enrollment Form, certifying that the information provided was accurate and that she understood that “providing false information for purposes of defrauding the government is punishable by law.”

28. On February 25, 2014, Defendant signed and submitted a signed sworn statement of D.C. residency to DCPS, affirming that she lived in the District at 800 4th Street, S.W., N311, Washington, D.C. 20024.

29. Relying on the Enrollment Forms and sworn statements of D.C. residency Defendant submitted to DCPS, Wilson High School enrolled K.P. as a student for the 2013-2014 school year. K.P. was enrolled as a District resident.

30. Defendant knew the information she provided on the Enrollment Forms and sworn statements of D.C. residency were incorrect because, when she signed and submitted the forms, she knew that K.P. was living with her in Clinton, Maryland and not at the District addresses she stated on the forms.

Defendant's False Statements to a DCPS School
(2014-2015 School Year)

31. On June 14, 2014, Defendant signed and submitted an Enrollment Form to re-enroll K.P. at Wilson High School for the 2014-2015 school year. Defendant stated that K.P. lived at 800 Fourth Street, S.W., N311, Washington, D.C. 20024. Under the "Residency Status" section of the Enrollment Form, Defendant checked the box on the form next to "D.C. Resident (Student and parent or legal guardian live in D.C.)," indicating that she and K.P. were District residents. Under the "Housing Status" section, Defendant checked the box next to "Permanent." Defendant signed the Enrollment Form, certifying that she completed the form, the information provided was accurate and that she understood that "providing false information for purposes of defrauding the government is punishable by law."

32. On June 18, 2014,¹ Defendant signed and submitted a sworn statement of D.C. residency, affirming that she resided in the District at 800 Fourth Street, S.W., N311, Washington, D.C. 20024.

33. Defendant knew the information she provided on the Enrollment Form and sworn statement of D.C. residency was incorrect because, when she signed and

¹ The Sworn Statement of D.C. Residency is dated June 18, 2018; however, it was submitted in 2014 along with other enrollment documents dated June 18, 2014.

submitted the form, she knew that K.P. was living with her in Clinton, Maryland and not at the District address she stated on the forms.

34. On October 13, 2014, Defendant also submitted a document titled Primary Caregiver Authorization Form signed by Defendant and Shonda Peterson. The document was notarized and stated that it was valid from “August 01, 2014 until June 30, 2016.” The document stated that Shonda Peterson had authority to enroll Defendant’s child, K.P., “in school and make educational decisions” and to “provide food and shelter . . . and to make decisions regarding [the child’s] day-to-day activities[.]”

35. The document submitted by Defendant was not OSSE’s Sworn Statement of Other Primary Caregiver Form for the 2014-2015 school year. The OSSE Statement required that “[a] person seeking to enroll a student under the status of ‘other primary caregiver’ shall provide documentation, such as this sworn statement, that establishes his or her status as an ‘other primary caregiver’ as well as documentation that establishes his or her residency status as required by DC. Law and regulations.” Shonda Peterson did not provide documentation to establish her status as an other primary caregiver pursuant to D.C. Code § 38-310.

36. Defendant knew that Shonda Peterson did not have legal custody of her son, K.P., nor did she qualify as K.P.’s primary caregiver during the time period of August 1, 2014 to at least January 29, 2015 as K.P. was not living with Shonda Peterson during that time period, but was living with Defendant in Clinton, Maryland. Defendant knew that the information contained in the notarized document she

provided on October 13, 2014 was false because K.P. lived with Defendant at all times during the events described in this complaint.

37. On January 29, 2015, Shonda Peterson was awarded sole physical and joint legal custody of K.P.

38. Relying on the false residency information in the enrollment profile form, the residency verification forms, and the insufficient October 13, 2014 document, Wilson High School enrolled K.P. as a student for the 2014-2015 school year. K.P. was enrolled as a District resident, including during the time period up to January 29, 2015 when K.P. remained in the legal and physical custody of Defendant, a resident of Maryland.

Defendant's Failure to Pay Nonresident Tuition Owed
for the 2013-2014 and 2014-2015 School Years

39. Nonresident tuition for K.P. to attend Wilson High School for the 2013-2014 school year and part of the 2014-2015 school year was \$10,795 and \$6,144, respectively.

40. The total amount of nonresident tuition for K.P.'s attendance at a DCPS school for the 2013-2014 school year and part of 2014-2015 school year was \$16,939.

41. To date, Defendant has not paid any of the nonresident tuition owed for K.P. to attend a DCPS school for these two school years, nor have any tuition payments been made on her behalf.

COUNT I
False Claims Act
Knowingly Making a False Record or Statement Material to Avoid an Obligation to
Pay the District
(D.C. Code § 2-381.02(a)(6))

42. Paragraphs 1 through 41 are realleged as if fully set forth herein.

43. Defendant knowingly made, used, and caused to be made or used, false records or statements to conceal, avoid, or decrease a material obligation to pay the District. Defendant knowingly signed and submitted false enrollment forms and false sworn statements of D.C. residency for her son, K.P., causing DCPS schools to decline to charge nonresident tuition for K.P.'s attendance during the 2013-2014 school year and for part of the 2014-2015 school year in violation of D.C. Code § 2-381.02(a)(6).

COUNT II
Unjust Enrichment

44. Paragraphs 1 through 41 are realleged as if fully set forth herein.

45. To date, Defendant continues to owe the District the entire nonresident tuition for K.P.'s attendance at Hardy Middle School and Wilson High School.

46. By having her son, K.P., attend DCPS schools for the entirety of the 2011-2012, 2012-2013, and 2013-2014 school years and part of the 2014-2015 school year and by avoiding her obligation to pay nonresident tuition to the District despite her and K.P.'s residency in Maryland, Defendant has been unjustly enriched to the detriment of the District.

Prayer for Relief

WHEREFORE, the District respectfully requests that the Court enter judgment in its favor and against Defendant award damages as follows:

- (1) On Count I against Defendant, award the District treble statutory damages in an amount to be determined at trial, but not less than \$50,817 (three times \$16,939); civil penalties of not less than \$5,500 and not more than \$11,000, payable to the District, for each violation of the District's False Claims Act; and the costs of this action;
- (2) On Count II against Defendant, award the District actual damages in an amount to be determined at trial, but not less than \$36,736; and
- (3) Award the District interest, costs, and other recoverable expenses permitted by law; and
- (4) Award the District such further and additional relief as may be just and proper.

Jury Demand

The District of Columbia hereby demands a trial by jury by the maximum number of jurors permitted by law.

Dated: January 15, 2019.

Respectfully submitted,

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Public Advocacy Division

/s/ Catherine A. Jackson
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