



August 25, 2014

OPEN LETTER REGARDING STUDENT RELIGIOUS RIGHTS

**Via Regular Mail and Facsimile to (504) 398-9990**

Denis Rousselle, Superintendent  
Plaquemines Parish School Board  
1484 Woodland Hwy  
Belle Chasse, LA 70037

**Via Regular Mail and Facsimile to (504) 391-8975**

John A. Barthelemy, Principal  
South Plaquemines High School  
34121 Hwy 23  
Buras, LA 70041

**Via Regular Mail and Facsimile to (504) 297-5157**

Robert M. White, Esq.  
Counsel to the Plaquemines Parish School Board  
301-A Main Street  
Belle Chasse, LA 70037

AMERICAN CIVIL  
LIBERTIES UNION  
FOUNDATION OF  
LOUISIANA  
PO BOX 56157  
NEW ORLEANS, LA 70156  
T/504.522.0617  
WWW.LAACLU.ORG

Dear Messrs. Rousselle, Barthelemy, and White:

Please be advised that we represent John Doe, who was suspended from South Plaquemines High School for having dreadlocks that extend beyond the top of his shirt collar. John Doe's religious faith is Rastafari, and wearing his hair in dreadlocks and not cutting his hair is central to his religious beliefs.

On Friday, August 8, 2014, John Doe returned for the start of the 2014-2015 school year at South Plaquemines High School. He has dreadlocks that extend just beyond the bottom of the collar of his shirt. John Doe was told on the first day of school that he had to cut his hair. When he returned to school on Monday, August 11, 2014, and had not cut his dreadlocks he was sent home. John Doe and his mother spoke with a school board member who told John Doe to pin his hair up and return to school. John Doe pinned his hair up and returned to school on Friday, August 15, 2014, again, he was sent home. Although the school has not given John Doe written notice of his suspension, the actions of the school and Superintendent Rousselle are the equivalent of an unlimited suspension.

On Monday, August 18, 2014, John Doe's mother, Jane Doe, attended the school board meeting and asked for an exemption from the dress code policy for John Doe. On Tuesday, August 19, 2014, Jane Doe presented to Mr. Rousselle a letter from the 1<sup>st</sup> Church of Rastafar I that stated that the Does are members of the church and that the church's religious guidelines require males to grow

locks and more specifically not to cut their locks.<sup>1</sup> Ms. Doe was told that this letter was not enough. When she asked what information the school board required in order to make an accommodation for John Doe, Mr. Rousselle responded that he was not a lawyer.

The school administrators and Mr. Rousselle have prohibited John Doe from returning to school as long as his hair remains in dreadlocks, as his religion requires. Despite his numerous attempts to attend school, John Doe has been forced to miss ten of the first eleven days of this school year. John Doe's constructive suspension from school and the school's continued refusal to allow him to attend with his hair as his religion requires is unconstitutional under both the First and Fourteenth Amendments to the United States Constitution and Article 1 § 8 of the Louisiana Constitution. Additionally, the school board's dress code policy is in violation of Louisiana's Preservation of Religious Freedom Act, La. R.S. § 13:5231 *et seq.*

### Background

One of the tenets of the Rastafarian religion is that men should grow their hair long in dreadlocks. The Constitutional rights of Rastafari students with this belief has been litigated in Louisiana before.<sup>2</sup> The Constitutional rights of students with other religious or cultural beliefs that discourage or prohibit the cutting of their hair has been litigated on several occasions. One court, after considering the extensive testimony of expert witnesses on Native American religious beliefs, explained, "while also a matter of tradition, the wearing of long hair for religious reasons is a practice protected from government regulation by the Free Exercise Clause."<sup>3</sup> John Doe will be able to prove that his dreadlocks and hair length are a sincerely held religious belief of his Rastafari religion. It is also a method of self-expression, because it communicates to others an important fact about John Doe: that he is a Rastafari for whom traditional religious practices are important to him and his family. By refusing to allow him to attend school, the Board is violating John Doe's statutory and constitutional rights.

### Statutory Analysis

As you may be aware, in 2010 Louisiana passed a version of the Religious Freedom and Restoration Act, or "RFRA," known as the Preservation of Religious Freedom Act. This legislation imposes "strict scrutiny" on any burden on religious liberty, which means that with any such burden the school board must have a compelling interest that it is seeking to achieve, and the burden on

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<sup>1</sup> See, enclosed letter from Priest Zion Green of the 1<sup>st</sup> Church of Rastafar I, dated August 19, 2014.

<sup>2</sup> See, *Helaire, et al. v. Lafayette Parish, et al.*, 6:00CV02127 (W.D. La 2001). School board reached a settlement with eight children whose Rastafarian religion forbid them from cutting their dreadlocked hair and required them to wear head coverings. The school board was forced to waive the dress code hair rules prohibiting the wearing of headwear and extreme hair styles.

<sup>3</sup> *Teterud v. Burns*, 522 F.2d 357 (8<sup>th</sup> Cir. 1975).

religion must be narrowly tailored to achieve that interest.<sup>4</sup> In 2010 the Fifth Circuit Court of Appeals examined the Texas RFRA's application to a Native American student's hair length. The court concluded that it is a violation of the student's rights to force him to cut his hair or hide his hair in violation of his religious belief.<sup>5</sup> Similar to Native Americans, it is a tenet of the Rastafari religion that men should grow their hair long in dreadlocks, and just as the Native American student in Texas was allowed to attend with long hair, so must John Doe.

### Constitutional Analysis

Further, as John Doe's situation involves the right to self-expression, it is what the courts have referred to as a "hybrid claim," meaning that it involves religion and another fundamental right. This brings it under a heightened standard that has been applied by the district courts in the Fifth Circuit.<sup>6</sup> To pass constitutional muster, Plaquemines Parish will have to prove that the policy furthers an important government interest, and that the restriction is no more restrictive than necessary to further that interest.<sup>7</sup> It is unlikely that the school's hair length restriction furthers an important government interest and it is certainly not the least restrictive method necessary. Whatever "important" interest the School Board may have in John Doe's hair length – and we question whether such interest exists – banning him from school is certainly not the "least restrictive method" to enforce that interest. John Doe's offer to keep his hair pinned up makes it clear that alternative methods exist to enforce whatever "interest" the School Board may claim. Neither do we believe that the hair length restriction can survive the United States Supreme Court's "disruption" analysis as outlined in *Tinker v. Des Moines Indep. Community Sch. Dist.*, 393 U.S. 503, 509 (1969), because John Doe has not been disruptive, and his religious beliefs must take priority over any other student's potential curiosity about his appearance.

### Conclusion

The wearing of dreadlocks for John Doe is akin to the wearing of a religious icon by another student. We would object if the school were to tell a Christian student they could not wear a cross or if it were to permit the wearing of religious icons of one faith and prohibited those of another faith. In discriminating against John Doe's religious beliefs, the school is expressing a preference for certain religions, which is unacceptable. The school's actions of prohibiting John Doe from attending school until he cuts his hair violates the Louisiana and United States Constitutions, in addition to Louisiana's Preservation of Religious Freedom Act.

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<sup>4</sup> La. R.S. § 13:5231 *et seq.*

<sup>5</sup> *A.A. v. Needville Independent School District*, 611 F.3d 248 (5<sup>th</sup> Cir. 2010).

<sup>6</sup> *See, Chalifoux v. New Caney Indep. Ch. Dist.*, 976 F. Supp. 659 (S.D. Tex. 1997) and *Alabama & Coushatta Tribes v. Trustees of Big Sandy Indep. Sch. Dist.*, 817 F.Supp. 1319 (E.D. Tex. 1993).

<sup>7</sup> *United States v. O'Brien*, 391 U.S. 367 (1968).

We hereby request a formal hearing. We also request the following:

1. an exemption for John Doe from the school's dress code policies: (a) prohibiting boys' hair from extending lower than the top of a school shirt collar; and (b) prohibiting boys from pinning up, pulling back, or putting their hair in a pony-tail;
2. reversal of John Doe's suspension or any action taken against him, including but not limited to orders for him to return home or stay home;
3. reversal of any write-ups or disciplinary action taken against John Doe;
4. that John Doe be allowed to make up any work missed as a result of disciplinary action against him; and
5. that none of the days during which John Doe was prohibited from attending school be counted against him.

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This controversy has adversely affected John Doe personally, as well as his grades. We ask that the School Board immediately take all steps to remedy any harm he has suffered and to respect and protect his religious beliefs.

Please contact me at your earliest convenience to schedule a hearing. This must be done as quickly as possible to protect John Doe's right to an education.

Sincerely,

Candice Sirmon  
Staff Attorney  
ACLU Foundation of Louisiana

cc: John Doe  
Jane Doe