

Parents sue Union over alleged 'witch hunt' of daughter

By Brian Barber, World Staff Writer, October 27, 2000,

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A 15-year-old girl who was suspended from Union Public Schools last year after she allegedly was accused of being a witch and putting a hex on a teacher filed a federal lawsuit against the district and several officials Thursday, claiming that they violated her civil rights. Brandi Blackbear and her parents, Tim and Toni Blackbear, are being represented by an American Civil Liberties Union attorney in the lawsuit and have asked for a jury trial. "It's hard for me to believe that in the year 2000 I am walking into court to defend my daughter against charges of witchcraft," Tim Blackbear said. Doug Mann, attorney for the school, said the defendants had not been served with the lawsuit but that when they are, they will "respond vigorously." The lawsuit, filed in the U.S. District Court for the Northern District of Oklahoma, contends that Brandi's troubles began when she was attending the Union Eighth Grade Center on April 28, 1999, shortly after the massacre at Columbine High School in Littleton, Colo.

School officials, acting on rumors that Brandi was carrying a weapon, searched her locker and her book bag, the lawsuit alleges. They did not find a weapon but instead discovered several of her creative writing projects, one of which involved a shooting on a school bus. Brandi was suspended for 19 days. The lawsuit contends that she was denied due process at her suspension hearing because of biased school officials. The girl also was harassed and ridiculed by her peers, many of whom asked if they were on her "hit list," the lawsuit alleges.

In December 1999, she was in the ninth grade at Union Intermediate High School when she was suspended again after being questioned about her interest in the pagan religion Wicca and whether she had put a hex on a teacher, who later became ill. The girl said she studied Wicca, which is based on the worship of nature, from books in the school's library but is not a follower of the religion. "This is taking us back to the Salem witch-burning times," said her attorney, John Mack Butler. Brandi, who is Catholic, denied the accusations, but because of the "hostility and oppression" by the school officials, she told them that she had been reading books about the religion and could be a member of a coven, the lawsuit contends.

The girl also was accused by school officials of having a pentagram — or a witches' symbol — on her hand, the lawsuit contends. She has a scar resembling a star on her hand and had drawn a circle around it. Brandi "was advised that she could not use any kind of emblems or any other paraphernalia that even remotely pertained to the Wicca religion, although numerous students openly displayed other religious symbols including the Christian cross," according to the lawsuit.

The suit contends that Assistant Principal Charlie Bushyhead accused Brandi of casting a spell on a teacher who later became sick and was hospitalized. Brandi was suspended for 15 days, Butler said, alleging that the school violated her rights of freedom of religion, speech, due process and privacy. She is now in 10th grade at Union.

"We take on very few of these cases," said ACLU state chapter spokeswoman Joann Bell. "We feel the outcome of this one will benefit a lot of young people by protecting their rights." In addition to Union Public Schools and Bushyhead, defendants listed were Sandy Franklin, Union counselor; Jack Ojala, Union Eighth Grade Center principal; Catherine Miller, Eighth Grade Center counselor; and Philip Barr, William Bruner, Derek Rader and Frank Spiegelberg, all school board members. None returned calls for comment.

In another federal court review of a student's suspension, U.S. Senior District Judge James O. Ellison ordered in August that an Owasso High School senior be reinstated into regular classes after she was suspended in May for writing a poem that school officials said threatened a teacher's life. Ellison found that the poem did not convey a genuine threat and that the girl's First Amendment rights should prevail.

Brian Barber, World staff writer, can be reached at 581-8322 or via e-mail at [brian.barber@tulsaworld.com](mailto:brian.barber@tulsaworld.com).

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Now, answer the following questions:

1. What similarities do you see between the Brandi Blackbear case and cases that were tried in early courts?
2. What differences do you see between this case and those that appeared in the early courts?
3. Looking back to Step 2, what are the elements (*actus reus*, *mens rea*, concordance of the two) of the offense Brandi is accused of committing? Does what Brandi did satisfy each of the three elements? Why/why not?
4. How could Brandi's modern due process rights help her if she were charged in criminal court with making the teacher ill?
5. Why was her case filed in federal court rather than in her local state court?
6. Do you feel Brandi should have been suspended? If so, for what offense?