

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON, DIVISION

JASON JERMAINE TOLLIVER	§
	§
Plaintiff,	§
	§
vs.	§
	§
PRAIRIE VIEW A&M UNIVERSITY,	§
GEORGE C. WRIGHT, Individually and	§
In his official capacity, ZENA STEPHENS,	§
Individually and in her official capacity,	§
DENISE M. SIMMONS, Individually and	§
in her official capacity, TAYLOR WILLIAMS,	§
Individually and in her official capacity,	§
DONNIE P. HOWARD, JR. and in his official	§
capacity, Officer Robinson, Individually	§
and in his official capacity AND Waller	§
County Sheriff's	§
Office in its official capacity	

Defendants,

ORIGINAL COMPLAINT

Plaintiff, Jason Jermaine Tolliver, complains against Defendants Prairie View A& M University, and Defendants George C. Wright, Zena Stephens, Denise M. Simmons, Taylor Williams, Donnie P. Howard, Jr. Officer R. Robinson in their individual and official capacities as follows:

I. **THE NATURE OF THIS ACTION**

1. This action based on constitutional due process, Title IX gender discrimination and related state law is brought on behalf of Plaintiff, Jason Tolliver (“Plaintiff” or “Mr. Tolliver”) , a now expelled, former student at Defendant Prairie View A& M University.
2. Prairie View has denied male students, including Mr. Tolliver of their rights to fair process in the investigation and adjudication of sexual misconduct complaints. In 2015, the Office of Civil Rights opened an investigation into the disciplinary process and procedures in place in the University.
3. Against this backdrop, Prairie View A& M University treated Mr. Tolliver in a manner inconsistent with the University policies and procedures, stripping him of his rights to a fair and just investigation and adjudication process. After receiving a report from a female student, Jessica last Name Unknown, concerning alleged sexual contact she had with Mr. Tolliver approximately one year earlier, the University failed to conduct an adequate, reliable, and impartial investigation and hearing. Upon failing to contact Mr. Tolliver’s represented Prairie View proceeded with the investigation and adjudication process without Mr. Tolliver’s participation altogether, depriving Mr. Tolliver of his right to defend himself against

false allegations. Prairie View reached the erroneous conclusions that Mr. Tolliver had engaged in misconduct, despite a lack of evidence or witness testimony to support Jessica's claims.

4. Prairie View indicated a bias towards male students when it investigated and adjudicated allegations against Mr. Tolliver in a manner and degree materially different than their investigation and adjudications of allegations made against female students by a male student. While Mr. Tolliver was removed from campus and extracurricular activities during the course of the disciplinary process, females were able to remain in dormitory and activities while claims against her were being investigated and adjudicated. While Mr. Tolliver was found "Responsible" for the two charges against him, without a basis, rationale, evidentiary support, or the opportunity to defend himself, the University assigned did not assign females and her accusers responsibility, and females received no sanctions.
5. In erroneously deciding that Mr. Tolliver engaged in sexual misconduct in violation of Prairie View's policy, the adjudicator relied on prejudicial assumptions and failed to apply the requisite preponderance of evidence standard required by both the University's own policies and Title IX. At all times, Mr. Tolliver was deemed guilty. Consequently, Mr. Tolliver was

expelled and dismissed from the University. This extreme and severe sanction was not warranted in light of the lack of evidence.

6. . Defendant, Prairie View A& M University conducted a procedurally flawed investigation and adjudication process leading to an erroneous outcome and unduly severe, disproportionate sanction resulting from anti-male discriminatory bias in violation of Title IX.

II. JURISDICTION AND PARTIES

7. This Court has federal and supplemental jurisdiction pursuant to 28 U.S.C. §1983, 28 U.S. C. 1331, 28 U.S. C. 1343 and 28 U.S. C. 1367 because : (I the case arises under the laws of the United States' (ii) the claims brought under Title IX of the Educational Amendments of 1972, 20 U.S.C. 1681, et seq., and 42 U.S.C. §§1983 and 1988 are civil rights claims are so closely related to the Title IX and 42 U.S.C. §1983 federal claims as to form the same case or controversy under Article III of the U.S. Constitution. This is an action under 42 U.S.C. §1983 for deprivation of Plaintiff's rights under the Fifth and Fourteenth Amendments to the United States constitution, for deprivation of Plaintiff's rights to property, liberty, due process, and equal protection under the United States Constitution for tortious interference, based on Texas common law, and for discrimination and retaliation under the Civil Rights

Act. This Court has personal jurisdiction over Defendants on the grounds that Defendants are conducting business at Defendant Prairie View A& M University and within the State of Texas.

8. Plaintiff, Jason Jermaine Tolliver (hereafter Plaintiff Jason Tolliver or Plaintiff) was a resident of Texas, which is within the Southern District of Texas, Houston Texas Division.

9. Defendant Prairie View A&M University System (hereinafter Defendant) is an arm of the State of Texas operating within Waller County, Texas, within the Southern District of Texas, and may be served with process by serving its President, Ruth J. Simmons at 700 University Dr. Prairie View, Texas 77446.

10. Defendant George C. Wright (hereinafter Defendant Wright) is the former President of Texas A&M University System at Prairie View A&M University and is a resident of Texas, which is within the Southern District of Texas, Houston Texas Division, and acted under color of law and may be served with process at 700 University Dr. Prairie View, Texas 77446 or where he can be found.

11. Defendant Zena Stephens (hereafter Defendant Stephens) is the former Police Chief at Defendant at Prairie View A&M University police department is a resident of Texas, which is within the Southern District of Texas, Houston Texas Division, and is a person who acted under color of law and may be

served with process at 700 University Dr. Prairie View, Texas 77446 or where she can be found.

12. Defendant Denise M. Simmons (hereafter Defendant Simmons) is Director of the Office of Student Conduct at Defendant Prairie View A&M University and is a resident of Texas, which is within the Southern District of Texas, Houston Texas Division, and acted under color of law may be served with process at 700 University Dr. Prairie View, Texas 77446 or where she can be found.

13. Defendant Taylor Williams (hereafter Defendant Williams) is faculty and staff member of the Office of Student Conduct at Defendant at Prairie View A&M University and is a resident of Texas, which is within the Southern District of Texas, Houston Texas Division, and acted under of color of law may be served with process at 700 University Dr. Prairie View, Texas 77446 or where he can be found.

14. Defendant Donnie P. Howard, Jr. (hereafter Defendant Howard) is faculty and staff member of the Office of Student Conduct at Defendant at Prairie View A&M University and is a resident of Texas, which is within the Southern District of Texas, Houston Texas Division, and acted under color of law and may be served with process at 700 University Dr. Prairie View, Texas 77446 or where he can be found.

15. Defendant R. Robinson (hereafter Defendant Robinson) is faculty and staff member of the University Police Department at Defendant Texas A&M University

System at Prairie View A&M University and is a resident of Texas, which is within the Southern District of Texas, Houston Texas Division, and acted under color of law and may be served with process at 700 University Dr. Prairie View, Texas 77446.

16. Defendant Waller County Sheriff (hereinafter defendant Waller County Sheriff) is an arm of the State of Texas operating within Waller County Texas, within the Southern District of Texas, and may be served with process by serving its Sherriff, R. Glenn Smith at 701 Calvit Street, Hempstead, Texas 77445.

III. **BACKGROUND FACTS COMMON TO ALL CLAIMS**

17. Plaintiff, Mr. Jason Tolliver was a student enrolled at Defendant, Prairie View A&M University, majoring in Computer Engineering from August 2012 until his dismissal on or about June 2015. Before that, Plaintiff was a student at Jackson State University, in Jackson, Mississippi, majoring in Computer Engineering since July 2008. Plaintiff transferred to Prairie View A&M University in Prairie View, Texas to start the Fall semester of 2012 in the Computer Engineering Program.

18. Plaintiff, Mr. Tolliver was expelled from Prairie View A&M University about two to three semesters short of his graduation, because he was falsely accused of violating the University's Student Conduct Code. Specifically, Defendant, Dennis Howard Jr, alleged that "on June 4, 2015 [Mr. Tolliver] was charged with Abuse of Student Conduct Process which includes investigations, conferences, and appeals. The alleged prohibited behavior included, but was not limited to: falsification, distortion, or misrepresentation of information". Secondly, Mr. Tolliver was accused of Stalking: non-consensual communication, including face-to-face, telephone calls, voice messages, electronic mail, written letters/notes, unwanted gifts, etc."

19. As a result, thereof, without notice and an opportunity for a hearing, he was restricted by the University Police Department; to all buildings on campus and was only allowed in buildings that he attended classes in and the library. Before having an opportunity to present his side of the story and provide any information that may be need to help reach a decision he was restricted to class and the library.

20. Plaintiff came to Defendant Prairie View A&M University with a good record of academic achievement throughout his educational career.

21. Plaintiff successfully completed two and a half years of Computer Engineering studies, including prerequisite courses. Plaintiff successfully completed the following courses in the Computer Engineering Program: Engineering Economy, General Chemistry, General Chemistry Lab General Inorganic Chemistry, Introduction to Engineering Computer Science & Technology, Introduction to Electronic Engineering Lab, Electric Circuits Lab, Calculus and Analytic Geometry I, Differential Equations, Modern Algebra, University Physics I, University Physics I Lab, University Physics II, University Physics II Lab, and American Government I. Plaintiff A improved by six points prior to him being wrongfully expelled.

22. On April 14, 2015, around or about 1:30 AM, Plaintiff came into contact with Waller County Sheriff's deputies and Prairie View A&M University police officers after they received a suspicious activity call. Though, Plaintiff did not fit the description; he was grabbed by force from a Waller County Sheriff's deputy and placed into handcuffs. After Plaintiff was released from detainment, Defendant Officer R. Robinson, a Prairie View A&M University Police Department Officer took pictures of him using his, Defendant Officer R. Robinson's, mobile phone. Plaintiff was issued a citation placed him on a restriction. Then, Defendant Officer R. Robinson escorted Plaintiff off of the campus. Mr. Tolliver went to the PVAMU police station to discuss how he was treated by Officer R. Robinson the previous night andhewas

illegally searched by PVAMU police. They went through his cellphone and vehicle without provocation. Chief Stephens attempted to intimidate, bully and discourage Mr. Tolliver as he attains his educational pursuit.

23. Plaintiff's vehicle was searched again, the next day, by Defendant Prairie View A&M University Police Department; when he visited the police station to express his concern about how he had been treated. During that time, Defendant Zena Stephens stated to Plaintiff, that, he “better turn around and walk in the opposite direction when the alleged victim is seen”. Plaintiff, stated to Defendant Zena Stephens “he does not know the alleged victim”. Like he stated the night before.

24. Plaintiff was told by Defendant Zena Stephens to “walk out of any room if the alleged victim was to, by chance walk in”. He was followed and harassed by Defendant University Police. Plaintiff also recalls Police driving by his home, waiting outside of the Engineering building and following him around campus. On the night of the alleged incident, Plaintiff stated that he consented to a search of his vehicle. During this time, while being detained by Defendant, University Police and Waller County Sheriffs; Plaintiff was harassed by a Waller County Sheriff's officer about his licensed weapon being in his vehicle in University Apartments. Defendant Waller County Sheriff's stated to Plaintiff, that his weapon may be a problem. On April 17, 2015, after sending an email to Defendant, Chief Stephens, Plaintiff was

on his way to PVAMU when he noticed that university police turned around against him on Richards Road. Plaintiff turned left on FM 1098, the officers turned right on FM 1098. Upon exiting the Wilson building, while walking to Plaintiff's car he saw another police vehicle patrolling the parking lot. As, Plaintiff got into his vehicle they exited parking lot at the New Electrical Engineering building. Plaintiff believe he was being followed because Chief Stephens is aware of the fact that she made outrageous comments to him.

25. Plaintiff had a hearing scheduled for June 9, 2015, but his representative, Gunny Thompson, African American Legal Defense Group; was never informed. Instead, Defendant University police contacted Plaintiff by phone when he did not appear for the hearing. Plaintiff, was then held responsible for violating the University Conduct Code, then expelled. Plaintiff's representative filed a complaint against the University but never received a response to whether the decision made would be overturned or upheld, on or around, June 22, 2015.

26. Plaintiff's Defendant, Prairie View A&M University account was repeatedly placed on hold, even after he complied with their request for a statement, regarding an alleged incident. Plaintiff could not register for any classes. Plaintiff also received derogatory emails to his personal email address from Defendant, Prairie View A&M

University, Office of Student Conduct, from the Defendants Williams, Howard and Simmons which violated his right to privacy. Plaintiff visited Defendant Prairie View A&M University, Office of Academic Affairs and Office of Student conduct in August 2015, while leaving he noticed Defendant Waller County Sheriff's speeding down University drive on campus. Plaintiff feels he was being watched and followed.

27. Plaintiff was contacted by email, by Defendant Texas A&M University, Attorney Mike Brown; while Plaintiff had representation. Plaintiff sent an email to several University officials requesting the incident report. Plaintiff was contacted by Defendant Prairie View A&M University several times asking was he coming back to school. Plaintiff responded no, each time. Plaintiff was told repeatedly that he was restricted to all buildings on campus, except for buildings he attended classes in and the library, while being asked was he coming back by other University employees. Plaintiff was repeatedly told, in October 2015 by, Defendant Zena Stephens, that he would be arrested if he was ever seen in any buildings; other than buildings he attended classes in, and the library.

28. Plaintiff, stated that the University Police Department intentionally misled him into contacting several offices for a records request; before finally directing him to the Office of Academic Affairs. Defendant Zena Stephens and fellow colleagues

made a practical joke out of the situation. Defendant Prairie View A&M University Police officer Sergeant Veals, answered several calls placed by Plaintiff. Defendant Prairie View Officer Sergeant Veals, stated that Defendant Zena Stephens was at lunch and that she, Defendant Zena Stephens; would have to explain to Plaintiff where he would find the incident report, the entire time these Defendants knew Plaintiff would have to contact the Office of Academic Affairs. Plaintiff was never allowed to participate in a hearing to confront and face his accuser.

IV. VIOLATION OF TITLE IX AGAINST PRAIRE VIEW A&M UNIVERSITY

29. Plaintiff incorporates herein the facts in paragraph II, as if fully set forth herein.

30. Defendant, Prairie View A& M University violated Title IX because the outcome of Mr. Tolliver's hearing was incorrect. Inconsistencies in statements regarding the incidents of the claim that Mr. Tolliver alleged stalking, harassment. The university made decisions with an antimale bias toward him as a male student—Jason Toller asserts.

30. Every male student accused of sexual misconduct in the fall semesters at Prairie View A& M University was found liable and responsible

for their actions. A custom, pattern and practice of the institution pursuing investigations against male students, but not female. These patterns have been pre-determined. Zena Stephens and the Title IX coordinator were the employees responsible for deciding whether to press charges for sexual misconduct violation and they were not evenhanded when investigating male students including Jason Tolliver. Female students were treated more favorably when accused of sexual misconduct. In this instance, neither Jason Tolliver or the alleged female victim reported sexual misconduct by the other one, but when a third party notified the administrators and Stephens, Zena Stephens and Prairie View A& M University only pursued charges against Jason Tolliver.

V. VIOLATION OF TITLE IX BY ALL REMAINING DEFENDANTS

31. Plaintiff incorporates herein the facts in paragraph II, as if fully pled herein.

32. An “erroneous outcome” occurred in this case because Mr. Jason Tolliver was innocent and wrongly found to have committed the sexual harassment, and gender bias was a motivating factor.

33. The denial of due process and the procedural errors made in this case resulted in an “erroneous outcome” based on a flawed and distorted conception of the facts.

34. Defendants failed to conduct an adequate, reliable, and impartial investigation when it conducted its investigation and hearing into Mrs. Jessica’s allegations, without Jason Tolliver’s participation due to the failure to notify his representative. The subsequent investigation and adjudication were further conducted in a manner that was biased against Mr. Tolliver. The investigators and adjudicator were further biased by the University’s erroneous conclusion that Mr. Tolliver had engaged in misconduct, despite a lack of evidence or with testimony to support Jessica’s claims.

35. Defendants treatment of Jason Tolliver’s case also indicated that its policies and procedures are inherently biased against male students when it investigated and adjudicate allegations against Mr. Tolliver in a manner and degree materially different than their investigation and adjudication of allegations made against females by male students.

36. Cross-examination is the greatest legal engine for discovery of the truth and has been ruled to be required for basic due process in campus disciplinary case. Yet, in a case where Defendant University relied only on

the statements made by Jessica prior to the Panel, a hearing wherein Jessica was absent, and Mr. Tolliver was unable to attend due to not receiving notice, no cross-examination was available and in violation of due process of law.

37. From the moment an administrator, not Jessica, reported the allegations to the University, Jason Tolliver barred Jason Tolliver from attending his extracurricular activities or continue living on campus, separating him from his support system. Defendants found Mr. Tolliver “Responsible” for two claims alleged against him and imposed on him unduly harsh and unreasonable Sanction, despite a lack of evidence, witness testimony and lack of participation by both Mr. Tolliver and Jessica at the Panel.

38. The totality of circumstances establishes that Defendant University has demonstrated a pattern of inherent and systematic gender bias and discrimination against male students accused of misconduct.

39. Male respondents in sexual misconduct cases at Defendant University are discriminated against solely on the basis of sex. They are invariably found guilty, regardless of the evidence or lack thereof.

40. As a direct and proximate result of the above conduct, Jason Tolliver sustained tremendous damages, including, without limitation, emotional distress, loss of education and career opportunities, economic injuries and other direct and consequential damage.

41. As a result of the foregoing, Jason Tolliver is entitled to damages in an amount to be determined at trial, plus prejudgment interest, attorney's fees, expenses, costs and disbursements, and to an injunction enjoining violations of the Title IX in the process of investigating and adjudication sexual misconduct/harassment complaints.

IV. GENDER DISCRIMINATION AND 42 U.S.C. §1983
DENIAL OF FOURTEENTH AMENDMENT DUE PROCESS
AGAINST DEFENDAT PRAIRE VIEW A & M UNIVERSITY

42. Plaintiff incorporates herein the facts in paragraph II, as if fully set forth herein.

43. The Fourteenth Amendment to the Unites States Constitution proves that no state shall “deprive any person of life, liberty, or property, without due process of law.” In this case, defendants are state actors subject to the Fourteenth Amendment.

44. Defendant, Prairie View A& M University displayed initial bias toward male students including Mr. Tolliver who have been accused of assault, sexual harassment and or stalking. Zena Stephens had a pre-established bias against Jason Tolliver. The administrator's and law enforcement, in particular Zena Stephens who were part of judging Mr. Tolliver when he was first accused of stalking, the Title IX coordinator were bias prejudiced toward Plaintiff, as a male when they investigated Mr. Tolliver and later judging him on a university panel by presuming the allegations to be true. Mr. Jason Tolliver was deprived of reasonable notices and a hearing by Defendant Prairie View A& M University prior to being expelled, restricted in his travel on campus.

V. BREACH OF CONTRACT AGAINST PRAIRE VIEW
A&M UNIVERSITY

45. Mr. Jason Tolliver incorporates the facts stated herein as if fully set forth herein

46. Defendant University crated express and/or implied contracts when Jason Tolliver accepted an offer of admission to Defendant University and paid the tuition and fees.

47. Defendant University breached express and or/ implied contracts with Jason Tolliver.

48. Defendant University policies provide that students are to have a fair and impartial disciplinary process in which it is the responsibility of the University to show that a violation has occurred before any sanctions are imposed. Defendant University breached its contract with Jason Tolliver when it failed to conduct a fair and impartial process, including not holding a hearing in which Jason Tolliver could meaningfully participated. At no time was Jason Tolliver afforded the procedural guarantees that generally accompany a hearing, such as the right to present witnesses and evidence, confront one's accuser, and cross-examine and challenge any witnesses against him, all before an impartial and objective fact-finder. Thus Defendants violated the contract with Jason Tolliver when they failed to afford him a proper hearing on the accusations against him.

Defendant improperly when it improperly placed the burden of proof on Jason Tolliver to prove that the accusations against him were not true and when it failed to utilize the preponderance of the evidence standard in fact in reaching the outcome. Defendant University therefore breached its contract with Jason Tolliver when it failed to utilize the required preponderance of the evidence standard.

49. Based on the aforementioned facts and circumstances, Defendant University breached and violated a covenant of good faith and fair dealing implied in the agreement(s) with Jason Tolliver. Defendant University failed its duty of good faith and air dealing when it meted out a disproportionate sanction notwithstanding the flawed process and lack of evidence in support of the allegations of sexual misconduct.

50. Jason Tolliver is entitled to recover damages for Defendant university's breach of the express and/ or implied contractual obligations described above. As a direct and proximate result of the above conduct, Jason Tolliver sustained tremendous damages, including, without limitation, emotional distress, loss of educational and career opportunities, economic injuries and other direct and consequential damages.

51. As a result of the foregoing Jason Tolliver is entitled to damages in an amount to be determined at trial, plus prejudgment interests, attorney's fees, expenses costs and disbursements.

IV. STATE LAW ESTOPPEL AND RELIANCE AGAINST DEFENDANT UNIVERSITY

52. Jason Tolliver incorporates the facts stated herein as if fully set forth herein

53. Defendant University's policies constitute representations and promises that Defendant University should have reasonably expected to induce action or forbearance by Jason Tolliver.

54. Defendant University expected or should have expected Jason Toliver to accept its offer of admission, incur tuition and fees expense, and choose not to attend other colleges based on its express and implied promises that Defendant University would not tolerate, and Jason Tolliver would not suffer, harassment by fellow students, officers and would not deny Jason Tolliver his procedural rights should he be accused of a violation of University policies.

55. Jason Tolliver relied to his detriment on these express and implied promises and representations made by Defendant University.

56. Based on the foregoing, defendant University is liable to Jason Tolliver based on estoppel.

57. As a direct or proximate result of the foregoing conduct, Jason Tolliver is entitled to damages in an amount to be determined at trial, emotional distress, psychological damages, loss of educational and other direct and consequential damages plus prejudgment interests, attorney's fees, expenses costs and disbursements.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, for the foregoing reasons, Jason Tolliver demands judgment against Defendant as follows:

(i) Section 1983, a judgment against Defendants awarding Jason Tolliver damages in an amount to be determined at trial, including , without limitation, damages to physical well-being, emotional and psychological damages, damages to reputation, past and future economic losses, loss of educational opportunities, and loss of future career prospects, plus prejudgment interests, attorneys' fees, expenses, costs and disbursements an injunction enjoining violations of the Fourteenth Amendment in the process of investigating and adjudicating sexual misconduct complaints;

(ii) Title IX of the Education Amendments of 1972, a judgment against Defendants awarding Jason Tolliver damages in an amount to be determined at trial, including, without limitation, damages to physical well-being, emotional and psychological damages, damages to reputation, past and future economic losses, loss of education opportunities, s off future career prospects, and punitive damages, plus prejudgment interest, attorney's fees, expenses, costs and disbursements and an injunction against and to an injunction enjoining violations of the Tittle Ix in the process of investigating and adjudicating sexual misconduct complaints;

(ii) Breach of contract, adjudgment awarding Mr. Jason Tolliver damages in an amount to be determined at trial, including without limitation, damages to physical well-being, emotional and psychological damages, damages to reputation, past and future economic losses, loss of educational and athletic opportunities, and loss of future career prospects, plus prejudgment interest, attorney's fees, expenses, costs and disbursements;

(iii) State law breach estoppel and reliance, a judgment awarding Mr. Jason Tolliver damages in an amount to be determined at trial including, without limitation damages to physical well-being, emotional and psychological damages, damages to reputation, past and future economic losses, loss of educational opportunities and loss of future career prospects, plus prejudgment interest, attorney's fees, expenses, costs and disbursements;

(iv) State Law negligent infliction of emotional distress, a judgment awarding Mr. Jason Tolliver damages in an amount to be determined at trial, including, without limitation damages to physical well-being, emotional and psychological damages, damages to reputation, past and future economic losses, loss of educational Opportunities, and loss of future career prospects, plus prejudgment inters, attorney's fees, expenses, costs and disbursements;

Awarding Mr. Jason Tolliver such other and further relief as the Court deems just ,
equitable and proper.

JURY DEMAND

Plaintiff demands a trial by jury.

LAW OFFICE OF DEBRA V. JENNINGS

/s/ Debra V. Jennings

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