

IN THE DISTRICT COURT IN AND FOR CLEVELAND COUNTY
STATE OF OKLAHOMA

THE SUSTAINABLE JOURNALISM)
FOUNDATION *d/b/a* NONDOC MEDIA,)
and WILLIAM W. SAVAGE III,)
Plaintiffs,)
)
vs.)
)
THE STATE OF OKLAHOMA *ex rel.*)
BOARD OF REGENTS OF)
THE UNIVERSITY OF OKLAHOMA,)
Defendant.)

Case No. CV-2021-1770
Judge Walkley

AFFIDAVIT OF JESS EDDY
IN SUPPORT OF PLAINTIFFS' RESPONSE TO
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

I, Jess Eddy, state under penalty of perjury under the laws of Oklahoma and in accordance with 12 O.S. § 426 that the following is true and correct to the best of my knowledge:

1. I am a graduate of the University of Oklahoma (the "University").
2. During the fall semester of 2010, I worked as a teaching assistant for former University President David Boren.
3. During portions of 2011 and 2012, I worked in the Office of the University President.
4. I was also employed by the University after I graduated. In July 2017, I was hired as an executive assistant to the Associate Vice President of Outreach, Belinda Biscoe.
5. While I was employed in Dr. Biscoe's office, I confided in her that former University President David Boren had made unwanted sexual advances toward me while I was working for him and enrolled as student, starting in November 2010. These unwanted sexual advances continued on a sporadic basis in 2011 and 2012.

6. I first recall telling Dr. Biscoe about these unwanted sexual advances during a meeting for the National Conference on Race and Ethnicity in Higher Education in July or August 2017.

7. In April 2018, I transferred from Dr. Biscoe's office to a position in the Diversity Office of the University, where I worked under the Vice President for University Community.

8. Upon information and belief, on or around November 8, 2018, Dr. Biscoe reported what I told her about former President Boren's unwanted sexual advances to another member of the University administration.

9. Dr. Biscoe made that report without my knowledge. I became aware that she made her report in late February 2019, when counsel for former President Boren, Clark Brewster, provided me a document that purports to be a copy of an "Intake Summary," which contained a narrative similar to the one I shared with Ms. Biscoe. Brewster advised me that my story was the reason that Jones Day had been hired to conduct its investigation into President Boren's sexual misconduct. That document, dated November 8, 2018, is attached hereto as **Exhibit A**.

10. My employment with the University ended on December 23, 2018.

* * *

11. On February 13, 2019, I was interviewed by three people working for Jones Day. Richard Deane and Deborah Sudbury were two of the interviewers, and Mr. Deane did most of the questioning. I cannot recall the name of the third Jones Day interviewer. My father, Rand Eddy, was also present. Neither the Sexual Misconduct Officer nor any other member of the University's Institutional Equity Office, nor any other representative of the University was present.

12. At that time, I was under the impression my employment severance agreement with the University obligated me to participate in this investigation.

13. I was informed that the purpose of the interview was an investigation into allegations that former President Boren misused his authority with respect to subordinates and students, including unwanted sexual advances made toward subordinates and students.

14. Mr. Deane informed me that he and his colleagues would try to keep interview participants' identities anonymous but could not guarantee anonymity.

15. I asked Mr. Deane whether the interview comprised part of an investigation under Title IX. He did not answer that question directly but instead stated that his colleagues had been asked by the University to gather facts, and that the University would subsequently determine what, if any, actions would be taken.

16. Mr. Deane began the February 13, 2019 interview with a series of general questions. Midway through the interview, however, his tone changed, and it became clear to me that the purpose of the interview was to elicit evidence of specific incidences of sexual misconduct by former President Boren toward me.

17. I felt ambushed by Mr. Deane and his colleague's approach because I had not been provided notice of the nature of the interview; I did not know at that time that Ms. Biscoe had reported what I told her about former President Boren's advances. I gathered that Ms. Biscoe had shared that information after my departure from the interview.

18. Following my February 13, 2019 interview, counsel for Boren, Clark Brewster, provided me a copy of the purported "Intake Summary" described above.

19. In mid-March 2019, I reported Boren's conduct, as well as the conduct of another University administrator named Tripp Hall, to the Norman Police Department.

20. Following that report, a representative of Norman PD informed me that Norman PD had referred the matter to the Oklahoma University Police Department.

21. I further recall that I was informed that the Oklahoma University Police Department referred the matter to the Oklahoma State Bureau of Investigation (“OSBI”) because part of the conduct I reported occurred out of state. I was later interviewed by an OSBI agent named Meghan Bowman.

22. On March 26, 2019, I participated in another interview with Jones Day. Richard Deane and Deborah Sudbury were again present, and Mr. Deane again did most of the questioning. My father, along with two sexual assault victims’ advocates were also present. Neither the Sexual Misconduct Officer nor any other member of the University’s Institutional Equity Office was present. Prior to the March 26 interview, I asked Susanna Gattoni to attend and she indicated that she would, but neither she nor any other representative of the University was present.

23. During the March 26, 2019 interview, I again asked Mr. Deane whether the investigation he and his colleagues were conducting was a Title IX investigation. He confirmed that their investigation included a Title IX investigation.

24. During the March 26, 2019 interview, one of the sexual assault victims’ advocates asked Mr. Deane whether he and his colleagues were required to report crimes alleged during their interview to law enforcement. Mr. Deane responded that their obligation was only to report to the University, and that the University would have to make its own judgment about whether it had an obligation to report alleged crimes to law enforcement.

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25. On or about May 6, 2019, I read an article by Nolan Clay published in The Oklahoman titled *OU Pays Law Firm More than \$500K for David Boren, Financial Data Investigations*, which is available at the website of The Oklahoman at <https://perma.cc/DV7V-DKGC>. That article indicated that Jones Day had issued a report summarizing the investigation I had been interviewed for. Clay's May 6, 2019, article stated that Jones Day's "report on its findings was more than 50 pages long. Boren has responded in writing through his attorney to that report. Boren could face sanctions if the university decides he was inappropriate."

26. On May 9, 2019, I emailed Bobby Mason, who was then the Title IX Coordinator for the University, and asked to review the investigative report that was provided to former President Boren's attorney. A true and correct copy of my correspondence with Mr. Mason dated May 9–10 is attached hereto as **Exhibit B**.

27. On May 10, 2019, Mr. Mason responded, stating, "I cannot approve your request to review the investigative report associated with David Boren because, thus far, you have not filed a complaint against him with our Sexual Misconduct Office. . . . You have the right to file a complaint and, if you chose to do so, you will be entitled to a notice of the outcome of your complaint and to be apprised of the evidence relied upon by the investigator." **Exhibit B**.

28. On May 21, 2019, Kirsten Burkett, then an employee in the University's Institutional Equity Office (which handles Title IX reports for the University), emailed me, stating,

[O]ur office does not currently have an open investigation with you as the complainant. If you would like us to proceed with an investigation, based on your reported allegations of sexual misconduct during your time at the University, you may file a formal grievance. . . . At your request we can also open an investigation through our office based on the information you have already provided to Jones Day, through that investigation.

However, because you were a witness in the Jones Day investigation, we cannot provide you with a copy of that report. If you would like to review the portions of

that report related to your interview with Jones Day we can arrange for that as we have with other witnesses.

A true and correct copy of my correspondence with Mr. Mason and several other University officials dated May 13–28 is attached hereto as **Exhibit C**.

29. On May 21, 2019, I responded to Ms. Burkett electing to review the portion of the Jones Day report that related to my interview. **Exhibit C**. I also confirmed that I was requesting that a Title IX investigation be opened based on the information I had provided Jones Day. **Exhibit C**. I indicated that I believed, based on my status as a victim, that I was entitled to the entire report, but that I also wanted to see the part of the report they were proposing to make available.

30. On May 28, 2019, Ms. Burkett facilitated providing me with a link to an electronic copy of a document purporting to be a portion (specifically, pages 19–22) of the report issued by Jones Day. A true and correct copy of the document I was provided by the University is attached hereto as **Exhibit D**.

31. On June 20, 2019, I received an electronic copy of a letter signed by Burkett. A true and correct copy of this letter is attached hereto as **Exhibit E**.

32. Burkett's letter stated that the information I provided to Jones Day had been used in an investigation opened by the University's Title IX office on May 21, 2019. Burkett's letter stated:

[T]he evidence was found to be sufficient to substantiate that you had been subjected to a hostile working environment. In accordance with University policy, the outcome of that investigation was submitted to the Board of Regents for appropriate administrative action.

On June 12, 2019, the Office of Institutional Equity was notified that David Boren had resigned from his transition agreement and has ended all affiliation with the University of Oklahoma. Once an individual voluntarily separates or resigns from OU, the University lacks jurisdiction over the individual, as the maximum sanction that the University can impose on anyone is disassociation with the

University. . . . This action—resignation—has the corollary effect of also ensuring that behaviors are stopped, and further occurrences are prevented to the best of the University’s ability.

Exhibit E.

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33. It is vital that the full report written and compiled by Jones Day investigating former President Boren’s conduct while at the University be released to the public.

34. I know from first-hand experience that the University’s system for reporting and investigating abuse suffered by subordinates at the hands of those in positions of authority is broken. That system failed me at multiple levels, and I believe it has also failed others in similar situations.

35. Without release of the full report, I do not believe that students and subordinates at the University can be assured that the University has taken steps to correct these failures.

36. Without the release of the full report written and compiled by Jones Day investigating former President Boren’s conduct while at the University, I do not believe that there will be accountability for the people and systems responsible for these failures. And most importantly, there will be no remediation of the systemic failures that permitted extensive abuse.

June 14, 2023
(Date and Place)
OKC, OK 73118


(Signature)