

DIANA ZALESKI

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SUMMIT COUNTY
CLERK OF COURTS

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

2003-02-0746

LeBron James)
1180 Rentar Lane)
Akron, Ohio 44307)

Plaintiff,)

CASE NO.

JUDGE

ASSIGNED TO JUDGE WILLIAMS

vs.)

The Ohio High School Athletic Association)
("OHSAA"))
4080 Roselea Place)
Columbus, Ohio 43214)

And)

Clair Muscaro)
Commissioner of OHSAA)
4080 Roselea Place)
Columbus, Ohio 43214)

PLAINTIFF'S VERIFIED COMPLAINT
FOR INJUNCTIVE AND OTHER
EQUITABLE RELIEF

And)

Saint Vincent-Saint Mary High School)
Fifteen North Maple Street)
Akron, Ohio 44303)

Defendants.)

COUNT ONE - OHSAA LACKS JURISDICTION

1. Plaintiff LeBron James is a resident of Akron, Ohio and a student at Saint Vincent-Saint Mary High School in Akron, Ohio, where he participates in interscholastic athletics (varsity basketball) on behalf of Saint Vincent-Saint Mary High School.

2. Defendant OHSAA is an unincorporated association whose purpose is to regulate interscholastic athletics among its members.

3. Defendant Clair Muscaro is Commissioner of the OHSAA.

4. Defendant Saint Vincent-Saint Mary High School is a member of the OHSAA.

5. This Court has jurisdiction under Ohio Revised Code Section 2727.02 and 2727.03. Venue is proper.

6. Prior to the January 31, 2003, LeBron James satisfied all OHSAA eligibility requirements and participated in every varsity basketball game played by Saint Vincent-Saint Mary High School during the 2002-03 season.

7. On January 31, 2003, defendant OHSAA through the unilateral actions of its Commissioner, Clair Muscaro, ruled that LeBron James was not eligible to continue to participate in interscholastic athletics in the State of Ohio because LeBron had allegedly forfeited his amateur status under rule 4-10-1 of the OHSAA bylaws which provides in Section (c) that an athlete forfeits amateur status in a sport by “[c]apitalizing on athletic fame by receiving money or gifts of monetary value...”

8. On January 31, 2003, defendant OHSAA through the unilateral actions of its Commissioner, Clair Muscaro, ruled that Saint Vincent-Saint Mary High School was required to forfeit any games in which LeBron James participated after LeBron’s alleged violation of

Rule 4-10-1(c) of the OHSAA bylaws, including, Saint Vincent-Saint Mary's recent victory over Akron Buchtel High School.

9. Defendants OHSAA and Muscaro have no jurisdiction to regulate LeBron James' conduct or make determinations related to his eligibility except as specifically delineated in the OHSAA constitution and bylaws.

10. Section 5 of the OHSAA bylaws provides that "in matters pertaining to personal conduct in which athletics are not involved, the school itself is to be the sole judge as to whether the student may participate in athletics."

11. Because James' conduct in accepting a gift of two jerseys pertained to personal conduct in which athletics are not involved, only defendant Saint Vincent-Saint Mary had the authority to determine if James' conduct violated Section 4-10-1 of the OHSAA bylaws.

12. Saint Vincent-Saint Mary has not made any determination that James violated Section 4-10-1. Defendants Muscaro and OHSAA had no jurisdiction for their January 31, 2003 ruling of ineligibility.

13. As a result of defendants Muscaro's and OHSAA's improper application of OHSAA bylaw rule 4-10-1, LeBron James suffered, and if not remedied, will continue to suffer irreparable harm in being unable to assist his team in competing for a state championship and a national title.

COUNT TWO - MUSCARO AND OHSAA'S DECISION
WAS ARBITRARY AND CAPRICIOUS

14. The arguments found in paragraphs 1 through 13 of this Verified Complaint are incorporated herein by reference as if fully rewritten herein.

15. Upon information and belief, and pursuant to the affidavits attached hereto, Defendant Muscaro based his unilateral sanction to declare LeBron James ineligible on an

erroneous and incomplete set of beliefs and facts which were derived from published media reports. As a result of an arbitrary, incomplete and unreasonable investigation which took one day to complete, Muscaro reached his ill-advised decision.

16. Defendant Clair Muscaro's one-day investigation culminated in a severe sanction despite the fact he failed to discuss either the allegations or the "findings" with LeBron James and other key witnesses prior to reaching a conclusion. Defendant Muscaro chose to deliberately ignore relevant facts offered to him by one Robert Rosenthal, a principal of the store where this incident occurred. Such a precipitous rush to judgment fails to comport with basic notions of fairness or provide LeBron James with notice and an opportunity to be heard.

17. As more fully detailed in the affidavits attached, the undisputable facts show that the only reasonable conclusion that could be drawn from a thorough investigation of the allegations against LeBron James is that he did not violate rule 4-10-1(c) of the OHSAA bylaws.

18. Defendants Clair Muscaro's and OHSAA's January 31, 2003 action ruling that LeBron James was not eligible to continue to participate in interscholastic athletics in the State of Ohio and that defendant Saint Vincent-Saint Mary High School was required to forfeit any games in which LeBron James participated in was arbitrary, capricious, unreasonable, based on a mistake of the facts, and was itself a mistake.

19. As a result of defendants Muscaro's and OHSAA's arbitrary, capricious, unreasonable and mistaken ruling, LeBron James suffered, and if not remedied, will continue to suffer irreparable harm.

COUNT THREE - OHSAA AND MUSCARO'S DECISION
DENIED LEBRON EQUAL PROTECTION UNDER THE LAW

20. The averments found in paragraphs 1 through 19 of this Verified Complaint are incorporated herein by reference as if fully rewritten herein.

21. Upon information and belief, Defendants Clair Muscaro and OHSAA routinely conduct thorough investigations of suspected violations of its constitution and bylaws before assessing penalties of ineligibility and forfeiture of the nature assessed on LeBron James, his teammates and defendant Saint Vincent-Saint Mary.

22. Upon information and belief, Defendants Clair Muscaro and OHSAA routinely provide individuals they are investigating for violation of OHSAA's constitution and bylaws notice of the charges against the individual and an opportunity to be heard prior to assessing penalties of ineligibility and forfeiture of the nature assessed on LeBron James and defendant Saint Vincent-Saint Mary.

23. In another instance regarding LeBron James himself, defendants Clair Muscaro and OHSAA provided James with notice of allegations against him and an opportunity to be heard; then decided, based on their more than two-week investigation that no rule violation occurred. In that instance, unlike the case at bar, discussions and cooperation between legal counsel facilitated the successful conclusion of the investigation.

24. Reported Ohio cases show that in other instances where student eligibility was in question, OHSAA has appointed independent counsel to investigate alleged infractions, and not made any decision until after the investigation was completed with a full hearing held. *Jessie Scott v. Ohio High School Athletic Association*, 2000 Ohio App. LEXIS 3193, Court of Appeals of Ohio, Fifth Appellate District, Stark Cty (2000).

25. Defendant Saint Vincent-Saint Mary has taken unusual measures to capitalize on the fame of LeBron James, from receiving fees for tournament participation around the country and playing in a larger arena, to raising ticket prices contracting with a cable network. Upon information and belief, the rush to judgment against LeBron James without reasonable

investigation, notice or an opportunity to be heard stems from Defendants' Muscaro and OHSAA's frustration that defendant Saint Vincent-Saint Mary is capitalizing on LeBron James fame.

26. In enforcing its constitution and bylaws and assessing penalties of ineligibility and forfeiture against LeBron James and Saint Vincent-Saint Mary, defendants Clair Muscaro and OHSAA have engaged in state action due to the close nexus of the State of Ohio and public officials and OHSAA. See *Brentwood Academy v. Tennessee Secondary School Athletic Association*, 531 U.S. 288, 121 S. Ct. 924, 148 L.Ed.2d 807 (2001).

27. By failing to conduct a proper investigation and assessing penalties of ineligibility and forfeiture against LeBron James and Saint Vincent-Saint Mary, defendants Clair Muscaro and OHSAA have violated LeBron James' right to equal protection under law as guaranteed in Article I, Section 2 of the Ohio Constitution.

28. Because LeBron James is treated differently from other similarly situated individuals who have or could capitalize on his fame, Rule 4-10-(c) of the OHSAA bylaws, as applied to LeBron James violated LeBron James' right to equal protection under law as guaranteed in Article I, Section 2 of the Ohio Constitution.

29. As a result of defendants Muscaro's and OHSAA's violation of the Ohio Constitution as applied to LeBron James, James has suffered, and if not remedied, will continue to suffer irreparable harm, as alleged above.

WHEREFORE, LeBron James requests judgment against the defendants for the following relief:

1. A temporary restraining order, preliminary and permanent injunction prohibiting defendants from taking or enforcing any action or order based on the January 31, 2003 decision

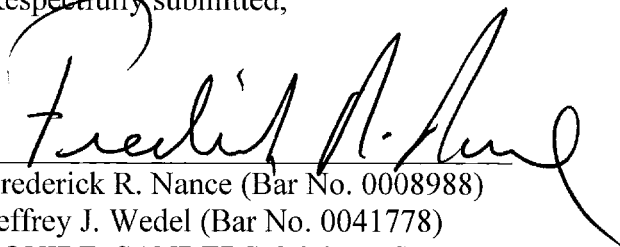
declaring LeBron James ineligible as an amateur athlete, or otherwise restraining, preventing or precluding him from participation in interscholastic athletics for the remainder of the 2002-2003 varsity basketball season and playoffs;

2. A temporary restraining order, preliminary and permanent injunction prohibiting defendants from taking or enforcing any action or order based on the January 31, 2003 decision that would cause Saint Vincent-Saint Mary to forfeit any varsity game in which LeBron participates or participated as a member of the varsity basketball team during 2002-03 varsity basketball season and playoffs;

3. A declaration that the January 31, 2003 ruling by Defendant Clair Muscaro and OHSAA is void; and

4. For such other relief as this Honorable Court deems fit and proper.

Respectfully submitted,

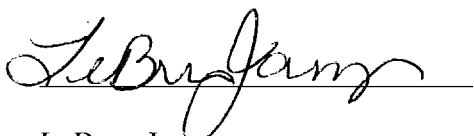


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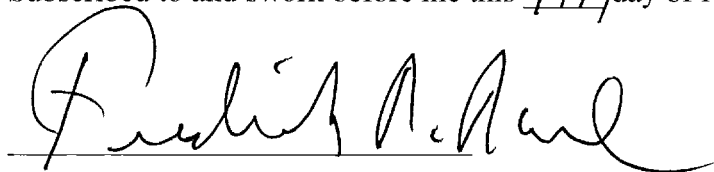
VERIFICATION

I, LeBron James, having been duly sworn depose and state that I have read the foregoing Verified Complaint for Injunctive and Other Equitable Relief, and that the information stated therein as factual is true, and those factual matters which are stated upon information and belief are believed to be true.



LeBron James

Subscribed to and sworn before me this 4th day of February, 2003.



Notary Public

FREDERICK A. BROWN, Attorney at Law
Notary Public, State of Ohio
My commission has no expiration date.
Section 147.03 B. G.

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