

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Case No:

MICHAEL SAUNDERS;  
JENNIFER SAUNDERS; and  
JOSEPH SAUNDERS,

Plaintiffs,

v.

TOWN OF ELIZABETH, COLORADO;  
JASON ROGERS, individually and in his official capacity; and  
STEVEN HERBEL, individually and in his official capacity,  
SEAN BIGLER, individually and in his official capacity,

Defendants.

---

**COMPLAINT AND JURY DEMAND**

---

Plaintiffs, by and through their attorneys at Todd Collins & Associates, LLC hereby submit this Complaint and Jury Demand alleging as follows:

**INTRODUCTION**

This case is about the unconstitutional seizure and conviction of J.S., a 17-year-old minor, for the alleged violation of the Town of Elizabeth's curfew ordinance, E.M.C. § 10-6-70 ("the Ordinance"). This case is further about the Officers' and the Town's unconstitutional intrusions upon the J.S.'s rights and his Parents rights to make decisions regarding their child, J.S.

Plaintiffs bring this case seeking justice after Defendants violated their civil rights as parents and citizens who have a right establish a home and a family, and bring up children

without interference from the government in violation of certain civil liberties including, but not limited to, the freedoms of association, freedom to make decisions about their children, and the freedom to travel freely within the United States and the State of Colorado.

Plaintiffs, Michael Saunders and Jennifer Saunders (hereinafter “the Parents”) are the parents of Joseph Saunders (hereinafter “J.S.”). On the night of July 30th and early morning of July 31st, 2021, the Parents gave J.S., who was 17 years old, permission to attend a social event with his friends at a bowling alley in Centennial, Colorado. J.S. and three of his friends, who were all 17-years-old at the time, travelled together to and from a social event at a bowling alley in Centennial, Colorado. J.S. and his three friends all reside in Elbert County with their parents. J.S. and two of his friends reside outside the Town of Elizabeth. D.W. resided in the Town limits.

J.S. and his friends left the social event at approximately 11:30 p.m. on July 30, 2021. The boys were all travelling home together. At approximately 12:18 a.m., while traveling through the Town of Elizabeth, J.S. and his three friends were pulled over by Officer Jason Rogers of the Town of Elizabeth Police Department. Officer Steven Herbel of the Elizabeth Police Department participated in the traffic stop with Officer Rogers. The shift supervisor, Sergeant Sean Bigler, also responded to the scene. Officer Rogers initiated the traffic stop after recognizing the car and its occupants. Officer Rogers claimed he initiated the stop due to a defective headlight on the vehicle the boys were travelling in. However, no such citation was issued. The Officers stopped and detained J.S. and his friends less than 100 yards away from their first destination, D.W.’s home.

The Officers removed J.S. and his friends from the car and detained J.S. and two other boys by forcing them to sit on the side of the street while the officers stood watch over them. The Officers separated D.W. from the other boys and detained him in the back of a patrol vehicle. The Officers alleged that because J.S. and his friends were allegedly in violation of the Town's curfew ordinance, they were not permitted to leave. Instead of allowing J.S. and his friends to continue their travels, the Officers detained the boys and forced them to contact parents or a family member. Before releasing the boys to a family member or trusted individual, Officer Rogers and Herbel issued citations to J.S. and his three friends for violations of the Town's curfew ordinance.

The Parents spent thousands of dollars defending J.S.'s case. Then entire family suffered extreme emotional distress from the incident, the Parents were ridiculed by others in the community, and they were afraid to allow their children to travel within the Town of Elizabeth at any time. The Parents feared reprisal from the Town and the Police Department. The Parents experienced great stress and lived in fear that they may be improperly parenting their children. They restricted their children from travelling in or near the Town of Elizabeth, especially at or near the unlawful curfew hours. The Parents were criticized publicly for bringing their case against the Town and accusing the Town of having an unconstitutional curfew ordinance. The Parents experienced great emotional stress over being criticized by other residents for allowing their 17-year-old son to be out during Elizabeth's curfew hours. The entire family suffered great emotional distress because of the actions of the Defendants. The Parents also have a teenage daughter who they remain overly cautious about allowing her to be within the Town of Elizabeth for any reason whatsoever at or near the curfew period.

At his first hearing before the Town of Elizabeth Municipal Court, J.S. pled not guilty and requested a trial of his case. Prior to trial, J.S. petitioned the Municipal Court for dismissal of his charges arguing that the Ordinance was unconstitutional on its face and as applied. The Municipal Court found that J.S. had standing to bring a facial challenge of the ordinance, but the Court overruled his request for dismissal. J.S. was later convicted of violation of the Town's curfew ordinance.

J.S. and the Parents appealed J.S.'s conviction to the Elbert County District Court. J.S. argued that the ordinance proscribed the presence of minors anywhere within the Town during the curfew period and was thereby unconstitutional on its face and as applied. On November 18, 2024, the Elbert County District Court agreed with J.S. and held:

In this action, J.S. was leaving a social event outside of Elizabeth and has a constitutionally protected interest to travel through the town to return home. Legitimate activities of minors, such as J.S., are infringed upon. 'The curfew ordinance's deterrent effect on legitimate first amendment activity is both real and substantial.' (internal citation omitted). In reviewing the constitutional rights on a rationality standard, the ordinance infringes upon a minor's First Amendment liberty interests and his or her right to travel. The Elizabeth ordinance is not 'carefully drawn so as to further its goals without unduly infringing upon the liberty interest of minors.' (internal citation omitted). The ordinance proscribes presence and not loitering . . . This ordinance does not aim to prohibit only

undirected or aimless activity during curfew hours, it also prohibits juveniles who are using the streets to travel between places where they have a legitimate right to be. The ordinance is not rationally related to preventing loitering. Therefore, the ordinance is over broad and the infringement of juvenile's constitutional liberties is 'not only real, but substantial as well, judged in relation to the [ordinance's] plainly legitimate sweep.' (internal citation omitted).

### **JURISDICTION AND VENUE**

1. Plaintiff's federal claims are brought pursuant to 42 U.S.C § 1983 and the First, Fourth, Fifth, and Fourteenth Amendments to the United States Constitution.
2. Plaintiff's state law claims are brought pursuant to C.R.S. § 13-21-131 and Article II, Sections 3, 7, 10, 24, 25 of the Colorado Constitution.
3. This Court has subject matter jurisdiction over the federal claim pursuant to 28 U.S.C. § 1331.
4. This Court has supplemental subject matter jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.
5. Venue is proper in the District of Colorado pursuant to 28 U.S.C. § 1391(b) because all the actions and events alleged herein which gave rise to this action occurred within the State of Colorado.
6. Jurisdiction supporting Plaintiff's claims for attorney fees and costs is conferred by 42 U.S.C. § 1988 and C.R.S. § 13-21-131(3).

## **PARTIES**

7. Plaintiffs incorporate by reference paragraphs 1-6 as though those paragraphs were fully repeated and set forth within this section.

8. All Plaintiffs were residents of the State of Colorado at all times relevant to the allegations, claims, and statements set forth herein.

9. Defendant, Town of Elizabeth, Colorado (the “Town”), is a statutory municipality within the State of Colorado. At all times relevant to this Complaint, the Town employed and was responsible for the training, supervision, and oversight of the Elizabeth Police Department and Defendants Rogers, Herbel, and Bigler.

10. Defendant, Jason Rogers (“Rogers”), was at all times relevant to this Complaint employed by Elizabeth Police Department (“EPD”) as a police officer. At all times relevant to this Complaint, Rogers acted under color of state law. Rogers is further identified in his individual capacity.

11. Defendant, Steven Herbel (“Herbel”), was at all times relevant to this Complaint employed by the EPD as a police officer. At all times relevant to this Complaint, Herbel acted under color of state law. Herbel is further identified in his individual capacity.

12. Defendant, Sean Bigler (“Bigler”), was at all times relevant to this Complaint employed by the EPD as a police officer. At all times relevant to this Complaint, Bigler acted under color of state law. Bigler is further identified in his individual capacity.

## **FACTUAL BACKGROUND/GENERAL ALLEGATIONS**

13. Plaintiffs incorporate by reference paragraphs 1-12 as though those paragraphs were fully repeated and set forth within this section.

14. Plaintiffs Michael and Jennifer Saunders (“Parents”) are the parents of Defendant, J.S. Michael Saunders is a sergeant with the Elbert County Sheriff’s Office. Mr. Saunders has over 30 years of experience as a law enforcement officer.
15. At all times relevant hereto, J.S. resided with his Parents at 7252 Moondarra Circle, Kiowa, Colorado 80117 in Elbert County, Colorado.
16. On July 30, 2021, J.S.’s Parents gave him permission to travel and gather with friends that evening at a bowling alley in Centennial, Colorado.
17. J.S. and three of his male friends all traveled to and from the bowling alley together to gather with other friends at a social event.
18. At all times pertinent hereto, all four boys were minors.
19. One of J.S.’s friends, D.W., who travelled to and from the bowling alley with J.S., lived within the Town’s limits. The other three boys all lived in Elbert County beyond the Town’s limits.
20. Another of J.S.’s friends, T.H., is the son of a former Sheriff. The former Sheriff had more than a decade of experience as a law enforcement officer.
21. All three of the boys travelling with J.S. also had permission from their parents to attend the social event that evening at the bowling alley in Centennial, Colorado.
22. The route that the boys travelled to and from the event required the boys to travel on State Highway 86 through and within the Town.
23. At approximately 11:30 p.m. on July 30, 2021, all four boys left the event and headed home.
24. The boys’ first stop was to be D.W.’s home in the Town.

**25.** At approximately 12:18 a.m. on July 31, 2021, Officers Rogers and Herbel were on patrol in the Town.

**26.** According to officer Rogers, he observed a vehicle driving westbound on E. Kiowa Avenue, a/k/a State Highway 86. The vehicle that Officer Rogers alleged to have observed was the vehicle that J.S. and his three friends were travelling in.

**27.** Officer Rogers alleges that the vehicle's passenger side headlight was not functioning. Rogers turned on his emergency lights on his cruiser and initiated a traffic stop of the vehicle. However, at trial, Officer Rogers testified that when he spotted the vehicle, he was familiar with the car and the boys in the car. He also testified that he knew the boys were all juveniles out after curfew and that was another reason he stopped them. Rogers' testimony is further supported by his report where he stated that he "noticed that the vehicle was occupied by 4 juvenile males." He offered this statement before confirming the identities of the four occupants of the vehicle.

**28.** Officer Herbel responded and assisted Rogers with the stop and detention of J.S. and his three friends. Sergeant Sean Bigler also responded to the stop.

**29.** The officers removed all four boys from the vehicle beginning with D.W. Rogers questioned D.W. about the Town's curfew ordinance and then instructed Herbel to detain D.W. in the back of a patrol vehicle. Rogers and Herbel separated the boys and questioned all four boys about the Town's curfew ordinance as the boys were removed them from the vehicle.

**30.** The officers ordered J.S. and two of the other boys to sit on the side of the road while D.W. remained detained in the back of a patrol vehicle.



- 31.** The officers detained the boys on the side of the road and in the back of the patrol vehicle for approximately one hour and thirty minutes.
- 32.** The officers detained the boys less than 100 yards away from D.W.'s residence.
- 33.** Officers Rogers issued a citation to J.S. for curfew violation and an alleged violation of Model Traffic Code 105.5(3). The citation for violation of the MTC was improperly cited and referenced. Officer Rogers destroyed that citation and issued another citation to J.S. for only an alleged violation of the Town's curfew ordinance. Rogers issuance of the new citation occurred on or about August 6, 2021. The other three boys were also issued citations only for curfew violations. A short time later, but not on the same night, the EPD issued D.W. yet another citation for violation of the curfew ordinance when D.W. stepped onto the sidewalk in front of his home during alleged curfew hours.
- 34.** J.S.'s first court appearance was scheduled for September 9, 2021 in the Elizabeth Municipal Court, case number 21-4078. J.S. entered a plea of not guilty.
- 35.** On January 20, 2022, J.S. filed a Motion to Dismiss the case because the Town's curfew ordinance was unconstitutional on its face and as applied to J.S. The Court scheduled a motions hearing for February 3, 2022, and the hearing was conducted. At that hearing, the Municipal Court found that J.S. had standing to bring a constitutional challenge against the Town's curfew ordinance both on its face and as applied to J.S.
- 36.** On February 10, 2022, Elizabeth Municipal Court denied J.S.'s motion to dismiss finding that the Town's curfew ordinance was constitutional. The Municipal Court ordered the parties to set a trial date. A trial date was set for March 3, 2022.

37. A trial was conducted on March 3, 2022 where the trial court found J.S. guilty of violating the Town's curfew ordinance.
38. On April 4, 2022, Plaintiffs filed with the Elbert County District Court a Notice of Appeal of the Municipal Court's conviction of J.S. The appeal was docketed as case number 2022CV30033. The appeal was to be decided by the Honorable Gary M. Kramer, District Court Judge, now retired.
39. On July 26-27, 2022, the Municipal Court Clerk transferred the Municipal Court Record on Appeal to the District Court. On July 28, 2022, the Town attorney filed a Motion for More Specific Orders. On August 1, 2022, the District Court ordered the parties to set the matter for a hearing. A hearing regarding more specific orders was scheduled for October 28, 2022, but was moved to September 29, 2022. On September 29, 2022, the District Court issued an Order Regarding Briefing whereby the parties were to follow Colorado Appellate Rules 25-31 regarding scheduling and briefing of the issues.
40. On November 21, 2022, the trial court stayed the case due to scheduling conflicts of the parties' attorneys. The stay was lifted on January 20, 2023.
41. On March 3, 2022, Plaintiffs filed their Opening Brief. On April 17, 2023, the Town filed its Answer Brief. On May 7, 2023, Plaintiff filed their Reply Brief and the case was fully briefed.
42. According to the Town's Answer Brief, it was the Town's position that "any parties concerned about the [O]rdinance could avoid the Town of Elizabeth altogether." Basically, the Town's position was civil rights be damned, if you don't like our policies and ordinances, then

do not travel in our Town. The Town's policies and practices and its police department established a reckless disregard for citizens' civil rights.

43. On July 10, 2023, the Honorable Gary M. Kramer retired, and the Honorable Theresa M. Slade was assigned as the District Court Judge of the Elbert County District Court.

44. On September 11, 2024, Judge Slade issued a Case Management Order instructing the parties to file a Joint Status Report as to whether the parties still requested a ruling on the issues. In her CMO, Judge Slade also offered the following, "It has come to the Court's attention that due to a number of events, none of which are attributable to the parties, there is no resolution to this municipal court appeal, which was ripe more than a year ago."

45. On November 18, 2024, the Elbert County District Court issued its Order Re: Appeal of Town of Elizabeth Municipal Curfew Ordinance Conviction. In its Order, the District Court overturned J.S.'s conviction finding that the Town's curfew ordinance was unconstitutional on its face and as applied to J.S. In reaching its conclusion the Elbert County District Court held,

In this action, J.S. was leaving a social event outside of Elizabeth and has a constitutionally protected interest to travel through the town to return home. Legitimate activities of minors, such as J.S., are infringed upon. "The curfew ordinance's deterrent effect on legitimate first amendment activity is both real and substantial." *Opelousas*, 658 F.2d at 1072; *Hammes*, 671 P.2d at 950. In reviewing the constitutional rights on a rationality standard, the ordinance infringes upon a minor's First Amendment liberty interests and his or her right to travel. The Elizabeth ordinance is not

“carefully drawn so as to further its goals without unduly infringing upon the liberty interest of minors.” *J.M.* at 224. The ordinance proscribes presence and not loitering despite the Town’s position the ordinance is to prohibit minors who are loitering. Answer p 17. This ordinance does not aim to prohibit only undirected or aimless activity during curfew hours, it also prohibits juveniles who are using the streets to travel between places where they have a legitimate right to be. The ordinance is not rationally related to preventing loitering. Therefore, the ordinance is over broad and the infringement of juvenile’s constitutional liberties is “not only real, but substantial as well, judged in relation to the [ordinance’s] plainly legitimate sweep.” *Batchelor*, 800 P.2d 599, 601 (Colo. 1990) (quoting *Broadrick*, 413 U.S. at 615). Fn. 5 See also Note, Assessing the Scope of Minors' Fundamental Rights: Juvenile Curfews and the Constitution, 97 Harv.L.Rev. 1163, 1165 n. 11 (observing that curfew ordinances are inherently susceptible to attack on overbreadth grounds).

**46.** The Town did not make any appeals nor contest the Elbert County District Court’s findings and Order that the Town’s curfew ordinance was unconstitutional on its face and as applied to J.S.

**47.** Prior to the Elbert County District Court’s ruling, the Parents made numerous pleas with the Town to simply update its curfew ordinance so as to not

violate a minor's civil rights pursuant to the Federal and State Constitutions. The Town refused and instead chose to battle J.S. and his parents.

**FIRST CLAIM FOR RELIEF**

**42 U.S.C. § 1983, First, Fourth, Fifth, and Fourteenth Amendments to the Federal Constitution; and C.R.S. § 13-21-131, Article II, §§ 3, 7, 10, 24, 25 of the Colorado Constitution  
(All Defendants re J.S.)**

48. Plaintiffs incorporate by reference paragraphs 1-48 as though those paragraphs were fully repeated and set forth within this section.

49. J.S. has the guaranteed right to freely associate with his friends and acquaintances at social events without interference and/or interruption by the State. J.S. further has the right to travel to and from such events without interruption or interference by the State.

50. The Town of Elizabeth is a division of the State.

51. On July 30, 2021, J.S. and three of his friends travelled to and from a social event in Centennial, Colorado where they gathered with more of their friends and acquaintances.

52. On July 30-31, 2021, J.S. and three of his friends travelled through the Town of Elizabeth, Colorado on State Highway 86 to and from the social event they were attending with other friends.

53. At approximately 11:30 p.m., J.S. and his three friends left the social event in Centennial, Colorado and proceeded to travel home. They travelled on State Highway 86 when they entered the Town of Elizabeth.

54. With the assistance of Officer Herbel and supervision of Sergeant Bigler, at approximately 12:18 a.m. on Saturday July 31, 2021, Officer Rogers stopped the vehicle that J.S. and his three friends were travelling in.

**55.** Officer Rogers first alleged that he stopped the vehicle because of a defective headlight.

However, no such citation was ever issued.

**56.** Officer Rogers later testified that he knew the boys and recognized the car, and he knew the boys were all under the age of 18.

**57.** Officers Rogers and Herbel removed J.S. and the other boys from the vehicle and detained them on the side of the road and the back of patrol vehicles for approximately one and a half hours.

**58.** Officers Rogers and Herbel removed D.W., J.S.'s close friend, from the car and detained him in the back of a patrol vehicle.

**59.** Officers Rogers and Herbel detained J.S. and his three friends less than 100 yards away from their destination of D.W.'s home.

**60.** While J.S. and his friends were being detained, Officers Rogers and Herbel questioned J.S. and his three friends about the Town's curfew ordinance.

**61.** Officers Rogers and Herbel issued citations to J.S. and his three friends for violation of the Town's curfew ordinance<sup>1</sup> because J.S. and his friends were travelling through the Town of

---

<sup>1</sup> At all times pertinent hereto, the Town's Curfew Ordinance read:

Sec. 10-6-70: It is unlawful for any person who has not reached his or her eighteenth birthday to be or remain upon any public road, street or alley, to be or remain in any establishment open to the public, or to be or remain in any other public place in the Town after the hour of 10:00 p.m. on any Sunday, Monday, Tuesday, Wednesday or Thursday, or after the hour of 12:00 midnight on any Friday or Saturday, or prior to the hour of 5:00 a.m. on any day except:

(1) When accompanied by a parent, guardian or other person having legal custody of such minor;

(2) For lawful employment when commuting directly to or from such employment and when carrying an employer's written and signed statement specifying the type, hours and place of employment; or

(3) When accompanied by a person who has reached his or her eighteenth birthday and who has in his or her possession the written and signed consent of the parent, guardian or other person having legal custody of the minor.

Elizabeth during the Town's curfew period while on their way home from a social event in a different town and county.<sup>2</sup>

**62.** At all times pertinent hereto, Defendants Rogers, Herbel, and Bigler were all law enforcement officers employed with the Town of Elizabeth Police Department.

**63.** At all times pertinent hereto, J.S. and his friends did not engage in any activities other than travelling upon State and local roads and highways to a social event in a different county, participating in the social event with other friends and likeminded individuals, and travelling home from the social event upon State and local roads and highways.

**64.** While J.S.'s cases were pending, officers of the EPD, one of whom was believed to be Defendant Rogers, issued J.S.'s friend D.W. yet another citation for violation of the Town's curfew ordinance because D.W. simply stepped out of his yard and onto the sidewalk in front of his home during the curfew period.

**65.** According to its own filings with the Elbert County District Court, it was the Town's policy that any citizen, regardless of age, who was concerned about the Town's curfew ordinance, should not travel through the Town.

**66.** The EPD and the Town have a history of abusing its powers and authority against J.S. and his friends in a manner that interfered with and obstructed J.S.'s and his friends' civil rights.

---

<sup>2</sup> Immediately upon the Elbert County District Court's order overturning J.S.'s conviction, the Town and the EPD issued a letter to all EPD officers to immediately stop issuing curfew tickets. The Town further changed its curfew ordinance to include exceptions for, among other activities, travelling "in a motor vehicle in interstate travel . . . and It shall be an affirmative defense to a charge under this Section that, at the time of the violation, the minor was . . . Exercising rights protected by the First Amendment of the United States Constitution, such as the free exercise of religion, freedom of speech, or the right of assembly."

Unfortunately, there are numerous other minors who have fallen victim to the Town's unconstitutional policies, and the Ordinance.

67. Defendants' policies, actions, and sometimes the lack of actions were the cause of J.S.'s injuries including violations of J.S.'s civil rights, emotional distress, economic harms, and dignitary harm.

68. The actions and inactions of Defendants while acting under the color of law, deprived J.S. and his friends of the rights, privileges, and liberties secured by the Federal and State Constitutions including the rights of freedom of association, freedom from unlawful seizure, freedom of intrastate and interstate travel, right to due process as guaranteed by the First, Fourth, Fifth, and Fourteenth Amendments to the Federal Constitution and Article II, §§ 3, 7, 10, 24, and 25 of the Colorado Constitution made actionable pursuant to 42 U.S.C. § 1983 and C.R.S. § 13-21-131, respectively.

#### **SECOND CLAIM FOR RELIEF**

**42 U.S.C. § 1983, Fourteenth Amendment to the Federal Constitution; and C.R.S. § 13-21-131, Article II § 25 of the Colorado Constitution  
(All Defendants re the Parents)**

69. Plaintiffs incorporate by reference paragraphs 1-68 as though those paragraphs were fully repeated and set forth within this section.

70. Defendants, Michael and Jennifer Saunders (the "Parents") are the parents of J.S.

71. At all times pertinent hereto, J.S. was 17 years old and residing with his Parents.

72. On July 30, 2021, the Parents gave J.S. permission to travel to and attend a social event with three of his friends.

73. On July 30, 2021, J.S. and three of his friends did travel together to and from a social event at a bowling alley in Centennial, Colorado.



74. J.S. and his three friends left the social event at approximately 11:30 p.m.
75. At 12:18 a.m. on July 31, 2021, J.S. and his three friends were travelling home through the Town of Elizabeth on State Highway 86 when Officers Rogers, Herbel, and Sergeant Bigler stopped them and detained them on the side of the street and in the back of a patrol vehicle for approximately one and a half hours.
76. The Officers forced J.S. to contact his parents. J.S.'s father asked Officer Rogers to simply release J.S. and let him continue home, but Rogers refused.
77. J.S.'s parents had attended a social event themselves that evening and consumed alcohol, and they could not drive.
78. Officer Rogers released J.S. into the custody of the Elbert County Sheriff's Office.
79. J.S. was then transported home by the Elbert County Sheriff's Office.
80. J.S. did not arrive home until approximately 2:00 a.m.
81. As parents, Mr. and Mrs. Saunders are possessed of "the liberty guaranteed under the United States Constitution, Amendment XIV to be free to engage in any of the common occupations of life including the establishment of a home where they may bring up children and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men. *Meyer v. Nebraska*, 262 U.S. 390 (1923); *see also Troxel v. Granville*, 530 U.S. 57 (2000) (the liberty of parents includes the right to direct the upbringing of children under their control); *Pierce v. Society of Sisters*, 268 U.S. 510 (1925) (the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations. Legislation may not unreasonably interfere with the liberty of parents to raise and guide children under their

control); *Prince v. Massachusetts*, 321 U.S. 158 (1944) (there is a constitutional dimension to the right of parents to direct the upbringing of their children).

**82.** On the night in question here, Officers of the EPD detained J.S. for travelling through the Town of Elizabeth during curfew period despite J.S. having permission from the Parents to do so.

**83.** Upon contact with the Parents of J.S., Mr. Saunders requested that Officer Rogers allow J.S. to return home.

**84.** Officer Rogers refused to release J.S. from detention even after the Parents confirmed to Officer Rogers they had given J.S. permission to attend a social event with friends.

**85.** Officer Rogers cited the Town's curfew ordinance and EPD's policies for his refusal of the Parents request to release J.S. and allow him to travel home.

**86.** Officer Rogers eventually released J.S. into custody of the Elbert County Sheriff's Office for transportation of J.S. to his home.

**87.** "[T]he interest of parents in the care, custody, and control of their children -- is perhaps the oldest of the fundamental liberty interests recognized by this Court." *Troxel*, 530 U.S. at 65 "It is cardinal with us that the custody, care and nurture of the child reside first in the parents, whose primary function and freedom include preparation for obligations the state can neither supply nor hinder." *Id.* at 66.

**88.** The Town and its police officers illegally seized J.S., the child of the Parents here, despite the Parents granting of their permission to J.S. to travel with friends to and from a social event in a neighboring city and county.

- 89.** The Town and its police officers refused to release J.S. even after the Parents requested that the Officers release J.S. because he had permission to travel with friends to and from a social event with friends.
- 90.** The Town's policies and practices were that any parent who has concerns about their child travelling in the Town of Elizabeth during the curfew period should instruct their children to travel around the Town or not travel regardless of the reasons.
- 91.** The Town's policies and practices of its police officers directly interfere and violate the Parents' rights to choose where, when, how, and which events their children may attend.
- 92.** The Parents' resistance to the Town's unconstitutional policies, practices, and procedures have caused the Parents to face public ridicule including public accusations about the Parents being bad parents for allowing their children to be out after the Town's curfew.
- 93.** The Town's and its police officers' policies and actions are an unconstitutional infringement on the Parent's fundamental rights to make decisions concerning the care, custody, and control of J.S.
- 94.** The Town and its police officers identified herein have deprived the Parents of their rights, privileges, liberties, and immunities secured by the Federal and State Constitutions and caused them to suffer economic, emotional, and dignitary harms. The Town is the moving force behind the harms that the Parents and J.S. have suffered.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for judgment in their favor and against Defendants and ask this Court to award them any and all relief permitted by law, including but not limited to the following:

- A. Economic loss and compensatory damages including but not limited to, all available damages for pain and suffering, physical injury, mental and emotional distress, humiliation, loss of enjoyment of life, and all other non-economic and economic damages available under the law; and
- B. Punitive damages if available; and
- C. all interests, fees, and costs associated with prosecution of this action and/or prosecuting and defending any cases and/or actions giving rise to this case; and
- D. Attorneys' fees and costs associated with this action including expert witness fees, costs, and other expenses; and
- E. Pre-judgment and post-judgment interests as appropriate; and
- F. Any further relief at law or equity that this Court deems just and proper.

**PLAINTIFFS RESPECTFULLY REQUEST A TRIAL BY JURY AND PAID THE REQUISITE FEES WHEN FILING THIS CASE.**

**PLAINTIFFS RESPECTFULLY OBJECT TO THIS CASE BEING HEARD BY OR TRIED BEFORE A DISTRICT COURT MAGISTRATE.**

Respectfully submitted this 6<sup>th</sup> day of November, 2025

s/ Todd Collins

Todd Collins, 49544

Marc Tull (Of Counsel)

Todd Collins & Associates, LLC

724 E Kiowa Ave Ste 5

PO Box 456

Elizabeth, CO 80107

Phone: (303) 588-2200

Email: [tcollins@tcollinsatlaw.com](mailto:tcollins@tcollinsatlaw.com)

[marc@tcollinsatlaw.com](mailto:marc@tcollinsatlaw.com)

Attorneys for Plaintiffs