



STORAGE NAME: h3515.CJS

DATE: 1/29/2016

**Florida House of Representatives
Summary Claim Bill Report**

Bill #: HB 3515; Relief/Q.B./Palm Beach County School Board

Sponsor: Fitzenhagen

Companion Bill: SB 58 by Abruzzo

Special Master: Parker Aziz

Basic Information:

Claimants: Terry Burge and Syvena Walker, as Parents and Guardians of Q.B., a minor.

Respondent: Palm Beach County School Board

Amount Requested: \$600,000

Type of Claim: Local equitable claim; result of a settlement agreement

Respondent's Position: Palm Beach County School Board does not oppose the claim bill as long as it is amended to reflect the settled amount of \$600,000

Collateral Sources: None reported.

Attorney's/Lobbying Fees: Claimant's attorney provided an affidavit stating that the attorney's fees will be capped at 25% of the total claim award in accordance with s. 768.28(8), F.S., and that the lobbyist's fees, if any, will be included in the 25% fee cap.

Notwithstanding the attorney's affidavit, the bill specifically provides that the total amount paid for attorney fees, lobbying fees, costs, and similar expenses relating to the claim may not exceed 25% of the total awarded under the bill.

Prior Legislative History: Senate Bill 58 by Senator Abruzzo was filed during the 2014 Legislative Session. It did not have a House companion and it was not heard in any committee.

Procedural Summary: On January 6, 2010, Terry Burge and Syvena Walker., as Parents and Guardians of Q.B. ("Claimants") filed a suit against the Palm Beach County School Board ("School Board") in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County. Prior to trial, the School Board admitted liability for the negligence of its employees but contested the amount of damages. The case went to trial, and on February 6, 2013, the jury returned with a verdict of \$1,700,000. The trial court also awarded Claimants \$77,950.41 in costs. Prior to the Special Master hearing on November 10, 2015, the two parties agreed to settle the claim for \$600,000. Pursuant to the settlement, the School Board has paid the sovereign immunity limit of \$100,000.00.

Facts of Case: On January 16, 2007, Q.B. was a three-year-old exceptional student education (ESE) student at Glade View Elementary School in the Palm Beach County School District. At that time, Q.B.'s speech and language capabilities were developmentally delayed, and Q.B. had virtually no speech at all. She was being transported on a school bus from Glade View Elementary School to her home. A fifteen-year-old male high school student who had emotional and behavioral disabilities was also a passenger on the school bus. Because he had a history of causing trouble on the bus, his assigned seat was directly behind the bus driver, Laverne Sellers, so that she could monitor his behavior. The fifteen-year-old male left his assigned bus seat, and sat next to Q.B. in her assigned bus seat. He proceeded to sexually assault Q.B. for approximately fifteen minutes before the bus attendant, Granisha Williams, walked up and discovered the fifteen-year-old male, kneeling in front of Q.B., with his arms around her, his jacket covering her lap, and kissing her neck. When Ms. Williams walked up, Q.B. had tears streaming down her face.

Neither Ms. Williams nor Ms. Sellers made the male student return to his seat.¹ Instead, he was allowed to remain next to Q.B. in her assigned seat until he got off the bus at his stop.² Neither the attendant nor the driver notified Q.B.'s parents when she got off the bus. Later that evening, Q.B.'s mother and father were notified of the incident on the bus, but were only told minimal details. It was not until weeks later when they were called to the State Attorney's Office that they were shown tape of the incident and were made fully aware of what happened to their daughter.

Q.B.'s mother described that her daughter's behavior has changed since the incident occurred. Prior to the incident, Q.B. was a sweet and affectionate "girly girl." Since the incident, her parents have observed that she will no longer wear dresses, she acts like a boy, and tends to be very aggressive towards boys. She has also become reluctant to let others touch her. Q.B. has remained in generally good health aside from symptoms of precocious sexual development³ that began around the age of six. She was also diagnosed with Attention Deficit Disorder with Hyperactivity and various academic learning disorders. In 2009, test results showed that she had an IQ of 77, placing her in the sixth percentile.

A psychiatric evaluation of Q.B. was conducted three years later by Dr. Michael Hughes, M.D., the Claimant's expert witness. The report from the evaluation revealed that because of her young age and virtually absent language skills at the time of the assault, Q.B. has no conscious narrative memory of the event. However, Dr. Hughes found that the assault will affect Q.B.'s basic developmental processes including the capacity to: reach out and trust the world around her or to withdraw into timidity and fear; to contain, calm, and soothe her inner emotional experiences as opposed to being overwhelmed by the strength of her own emotions; to manage fear and

¹ Both Laverne Sellers, the bus driver, and Grenisha Williams, the bus attendant, have been terminated from their employment at the School Board. Grenisha Williams was criminally prosecuted and convicted of felony child neglect without great bodily harm.

² The fifteen-year-old male was criminally prosecuted for the assault; however, he was not convicted because the court found him to be mentally incompetent.

³ Q.B.'s doctors describe her precocious sexual development as advanced bone age and possible early puberty, such that at age 6, Q.B. had a skeletal age between 8-10 years of age as well as early pubic hair.

SPECIAL MASTER'S SUMMARY REPORT--

Page 3

aggression so that the emotions can be contained; to trust people around her as opposed to responding with mistrust, fear, doubt, and aggression; and to have curiosity and a desire to understand people and the world as opposed to withdrawal and doubt. Dr. Hughes noted that while some of these deficiencies were present before, they were aggravated by the assault. He concluded that as a result of the assault, Q.B. will continue to suffer from psychological injuries into the future.

The Dr. Hughes' report also stated there is potential for improvement, but it will take considerable effort. His treatment recommendations included: individual psychotherapy; counseling sessions for Q.B.'s mother and father; a trial of stimulant medication to treat Q.B.'s Attention Deficit/Hyperactivity Disorder; and tests and remediation for her psychoeducational and speech and language needs.

The School Board's expert witness, Harley V. Stock, Ph.D., wrote a report stating that the pediatrician's examination of Q.B. after the incident shows no indication of a physical sexual assault. However, he noted that this does not necessarily mean that no assault occurred. He also opined that the incident has not had any long-lasting or permanent effect on Q.B. because of her young age, cognitive impairment, and lack of memory processing abilities at the time of the incident. Thus, he concluded that Q.B. will not need any type of psychotherapeutic or related intervention in the future.

During the Special Master hearing, Q.B. presented as a pleasant and coherent twelve-year-old girl in the seventh grade. Despite her learning and developmental difficulties, she has been improving tremendously in school and is currently making all A's and B's.

Recommendation: Given the jury verdict and extensive costs of Dr. Hughes's recommendations for Q.B.'s future care, the \$600,000 awarded through this claim bill is an appropriate settlement.

It should be noted that given the criminal records of both Terry Burge and Syvena Walker any monetary award should be placed into a special needs trust for the benefit of Q.B.⁴

I respectfully recommend that House Bill 3515 be reported **FAVORABLY**.

Parker Aziz, Special Master

Date

cc: Representative Fitzenhagen, House Sponsor
Senator Abruzzo, Senate Sponsor
Diana Caldwell, Senate Special Master

⁴ Burge was arrested seven times with only one misdemeanor conviction. Walker has been arrested sixteen times resulting in two misdemeanor convictions and three felony convictions. The remaining charges were either dropped or Nolle Prossed.