

***Griner v. King*, 104 F.4th 1 (8th Cir. 2024)**



July 2024

“Success Kid”



2007, Laney Griner

“Success Kid”

Success Kid.

Type of Work: Visual Material

Registration Number / Date: VA0001810362 / 2012-02-22

Application Title: Success Kid.

Title: Success Kid.

Description: Electronic file (eService)

Copyright Claimant: Laney Marie Griner, 1975- . Address: 10444 Big Tree Cir W, Jacksonville, FL, 32257.

Date of Creation: 2007

Date of Publication: 2007-08-26

Nation of First Publication: United States

Authorship on Application: Laney Marie Griner, 1975- ; Domicile: United States; Citizenship: United States. Authorship: photograph(s)

Names: [Griner, Laney Marie, 1975-](#)

“Success Kid”



“Success Kid”



Steve King ✓
@KingforCongress

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“Success Kid”

The New York Times

Steve King Removed From Committee Assignments Over White Supremacy Remark

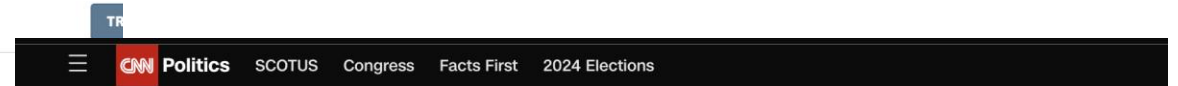
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Representative Steve King on Monday after meeting with the minority leader, Kevin McCarthy. Al Drago for The New York Times

By Trip Gabriel, Jonathan Martin and Nicholas Fandos

Jan. 14, 2019



Steve King removed from committee assignments following racist comments



By Manu Raju, Ashley Killough and Clare Foran, CNN

🕒 5 minute read · Updated 8:24 AM EST, Tue January 15, 2019



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ELECTIONS

Iowa Rep. Steve King, Known For Racist Comments, Loses Reelection Bid

JUNE 3, 2020 · 12:03 AM ET

By Barbara Sprunt



Rep. Steve King faced criticism for his comments on abortion, including when he questioned whether there would be "any population of the world left" if not for births due to rape and incest.


Charlie Neibergall/AP

“Success Kid”

TheVerge / Tech / Reviews / Science / E

MEMES / POLICY / TECH

Iowa Republican receives cease-and-desist for using a beloved kid meme so the ‘Lefties stay triggered’



/ Success Kid is not a Steve King supporter, his mom says

By Kim Lyons
Jan 28, 2020, 3:24 PM EST

THE HOLLYWOOD REPORTER

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Mom of “Success Kid” Threatens to Sue Steve King for Using the Meme in Fundraising

The mother of the child in the viral “Success Kid” meme is threatening to sue Rep. King for using the image in his campaign materials.

BY ASHLEY CULLINS JANUARY 27, 2020 2:53PM




The New York Times

Mother of ‘Success Kid’ Demands Steve King Stop Using His Meme

She fears the copyrighted photo of her son, now 13, will become associated with the “bigotry” of Representative King, an Iowa Republican who used it in a campaign fund-raising ad.

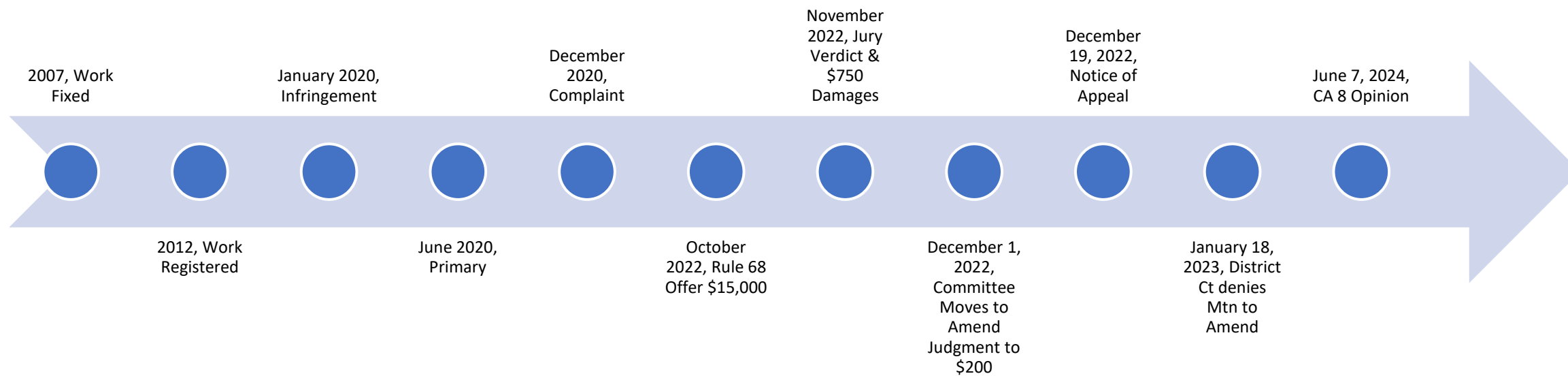
Share full article



The mother of “Success Kid” demanded that Representative Steve King stop using this copyrighted image of her son on his websites and campaign materials. (Yes, we have permission.) Laney Griner

By Alan Yuhas
Jan. 28, 2020

“Success Kid”



DF-AT Committee

- Implied License
- Fair Use

PL-AE Griner

- Implied License - Waived + No Evidence
- No Fair Use

***Griner v. King*, 104 F.4th 1 (8th Cir. 2024)**

- Implied License = **WAIVED**
 - At trial, Griner's counsel said: "I don't see any way that a colorable argument could be made for implied license."
 - The Defendants' counsel agreed: "I don't disagree with opposing counsel. I think that's probably right. I think **we'll concede** that."

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- Fair Use = NO
 - “[I]t is undisputed that the Committee’s use was purely commercial—the meme solicited campaign donations....”
 - **Creating a meme was not the original purpose** when Griner photographed Sam. However, **controlling the commercial use of the meme was the original purpose to copyright the image of Sam**, the meme’s template. The Committee, by creating and disseminating a meme, did not add a further purpose or different character to Success Kid template.
 - “Success Kid” *is* the meme.

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- Damages
 - Jury instruction of \$750 = WAIVED
 - Attorneys' fees = Committee NOT A PREVAILING PARTY
 - CA 8 joins CA 7 and CA 9 on interpreting intersection of § 505 “prevailing party” and FRCP 68 “offeree must pay the costs”