

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

Tryone R. Williams,	)	
	)	
<i>Plaintiff</i>	)	
	)	
-vs-	)	No. 20-cv-5639
	)	
Sheriff Thomas Dart, Cook County,	)	Judge Martha M. Pacold.
Illinois,	)	
	)	
<i>Defendants.</i>	)	

**DEFENDANT SHERIFF THOMAS DART'S ANSWER TO  
PLAINTIFF'S THIRD AMENDED COMPLAINT**

Defendant Sheriff Thomas Dart, in his official capacity, through his attorney KIMBERLY M. FOXX, State's Attorney of Cook County, by her Assistant State's Attorney Jorie R. Johnson and answers Plaintiff's Third Amended Complaint as follows:

1. This is a civil action arising under 42 U.S.C. § 1983. The jurisdiction of this Court is conferred by 28 U.S.C. § 1343.

**ANSWER: Defendant Sheriff Thomas Dart admits the allegations contained in paragraph one of the Third Amended Complaint.**

2. Plaintiff Tyrone R. Williams is a resident of the Northern District of Illinois who was detained at the Cook County Jail from June 8, 2020 through October 29, 2021.

**ANSWER: Defendant Sheriff Thomas Dart admits Plaintiff was detained in the Cook County Department of Corrections from June 8, 2020 through October 29, 2021. Defendant has insufficient information upon which to admit or deny the remaining allegations of this paragraph, and therefore denies them.**

3. Defendant Thomas Dart is the Sheriff of Cook County. Plaintiff sues Dart in his official capacity only.

**ANSWER: Defendant Sheriff Thomas Dart admits the allegations contained in paragraph one of the Third Amended Complaint.**

4. Defendant Cook County shares responsibility with defendant Dart for providing medical care for detainees at the Cook County Jail.

**ANSWER: Defendant Sheriff admits only to those particular duties and responsibilities imposed upon it by law, including, but not limited to as set forth in the County Jail Act, 730 ILCS 125/5 through 17, and denies any assertion of duties inconsistent therewith.**

5. Defendant Cook County is joined in this action pursuant to *Carver v.*

*Sheriff of LaSalle County*, 324 F.3d 947 (7th Cir. 2003).

**ANSWER: This allegation is not against Defendant Sheriff Thomas Dart; therefore, Defendant makes no answer in response to the allegations contained in this paragraph. If a response is required, Defendant admits The County of Cook is indemnitor for the Cook County Sheriff's Office.**

6. In early 2020, defendants became aware that the coronavirus poses a significant risk to the health and wellbeing of detainees at the Jail. Defendants also learned that many detainees, including plaintiff, were at high risk of potential. COVID-related complications that could result in death.

**ANSWER: Defendant Sheriff Thomas Dart admits that the Cook County Sheriff's Office was made aware of a new coronavirus ("Covid-19") in 2020. Defendant has insufficient information upon which to admit or deny the remaining allegations of this paragraph, and therefore denies them.**

7. Defendants learned in early 2020 about guidelines issued by the Centers for

Disease Control to prevent the spread of the virus. These guidelines include social distancing, hand sanitizing, and the wearing of face masks by detainees and correctional staff.

**ANSWER: Defendant Sheriff Thomas Dart admits only that Defendant Sheriff learned of guidance issued by the CDC at the time such guidance was issued, and the CDC issued its first guidelines for COVID-19 in correctional settings in late March 2020. Defendant has insufficient information upon which to admit or deny the remaining allegations of this paragraph, and there for denies them.**

8. Defendants adopted but did not implement or enforce policies for social distancing, hand sanitizing, and the wearing of face masks by detainees and correctional staff.

**ANSWER: Defendant Sheriff Thomas Dart denies the allegations contained in paragraph 8 of the Third Amended Complaint.**

9. At all times relevant, defendants knew that the failure to implement and enforce policies for social distancing, hand sanitizing, and the wearing of face masks by detainees and correctional staff would increase the number of persons who were infected by the coronavirus.

**ANSWER: Defendant Sheriff Thomas Dart denies the allegations contained in paragraph 9 of the Third Amended Complaint.**

10. Plaintiff became infected with the coronavirus in December of 2020 and was placed in a 14-day quarantine with other similarly infected detainees.

**ANSWER: Defendant Sheriff Thomas Dart admits only that Plaintiff had an inmate medical alert for “isolation” between December 3, 2020 and December 17, 2020. Defendant has insufficient information upon which to admit or deny the remaining allegations of this paragraph, and therefore denies them.**

11. While infected by the coronavirus, plaintiff experienced shortness of breath, fatigue,

fever, chills, coughing, muscle and body aches, and headaches. Plaintiff lost his sense of smell and taste and had a sore throat and a runny nose. Plaintiff experienced nausea, diarrhea, and persistent vomiting.

**ANSWER: Defendant Sheriff Dart has insufficient information upon which to admit or deny the allegations contained in this paragraph, and therefore denies them.**

12. The failure of defendant Sheriff to implement and enforce policies for social distancing, hand sanitizing, and the wearing of face masks by detainees was a cause of plaintiff's coronavirus infection.

**ANSWER: Defendant Sheriff Thomas Dart denies the allegations contained in paragraph 12 of the Third Amended Complaint.**

13. As a result of the foregoing, plaintiff suffered physical harm.

**ANSWER: Defendant Sheriff Thomas Dart denies the allegations contained in paragraph 13 of the Third Amended Complaint.**

**DEFENDANT SHERIFF THOMAS DART'S AFFIRMATIVE DEFENSES**

Pleading in the alternative, and without prejudice to the denials in his Answers, Defendant asserts the following separate affirmative defenses to Plaintiff's Complaint:

**I. Qualified Immunity**

1. With respect to the Plaintiff's claims, Defendant did not cause the deprivation of any constitutional rights of Plaintiff.
2. The conduct of Defendant was at all times objectively reasonable and did not violate any of Plaintiff's clearly established Constitutional rights.
3. Accordingly, Defendant is entitled to the defense of qualified immunity.

**II. Failure to Exhaust -- 42 U.S.C. §1997e(a)**

4. Plaintiff was at all relevant times and the date of filing, a pre-trial detainee. Under Section 1997e(a) of the Prisoner Litigation Reform Act, Plaintiff must exhaust his administrative remedies before filing a Section 1983 lawsuit for damages.
5. The Prison Litigation Reform Act provides that “no action shall be brought with respect to prison conditions under section 1983 . . . until such administrative remedies as are available are exhausted.” 42 U.S.C. § 1997e(a). *See Dale v. Lappin*, 376 F.3d 652, 655 (7th Cir. 2004).
6. Plaintiff failed to properly exhaust his administrative remedies and therefore, his claims are barred.

**III. Failure to Mitigate**

7. Without waiving his denials to Plaintiff’s allegations and to the extent Plaintiff claims any damages against Defendant, the claims are barred to the extent Plaintiff failed to act reasonably to mitigate his damages.
8. To the extent Plaintiff has failed to mitigate his damages, any award of damages may be reduced by the amount by reason of said failure to mitigate.

**IV. 42 U.S.C. §1997e(e)**

9. Plaintiff has requested compensatory damages but has not stated whether he seeks compensation for mental distress.
10. Section 1997e(e) of the PLRA provides, “No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury or the commission of a sexual act (as defined in section 2246 of title 18,

United States Code).”

11. Plaintiff cannot show physical injury and, as a result, under Section 1997e(e) of the PLRA cannot seek damages for alleged mental distress.

#### **V. Immunity from Punitive Damages**

12. To the extent Plaintiff seeks punitive damages from Defendant in his official capacities, the Defendants assert immunity from same.
13. First, an official capacity suit is tantamount to a claim against the government entity itself. *Guzman v. Sheahan*, 495 F.3d 852, 859 (7th Cir. 2007).
14. Second, a municipality is immune from punitive damages under 42 U.S.C. §1983. *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981).
15. Thus, the Defendants are immune from punitive damages in his official capacity

#### **VI. Emergency**

16. Plaintiff’s complaint centers around the local government’s response to COVID, a world-wide pandemic with, at that time, no known cure.
  17. As such, the allegations constitute response to a public health emergency and the Defendant’s response to the emergency is and was reasonable.
  18. The Emergency nature of the response is a complete defense to the claims.
- Defendant reserves the right to amend the affirmative defenses at any point throughout the course of discovery.

#### **JURY DEMAND**

Defendant respectfully requests a trial by jury.

WHEREFORE, Defendant respectfully requests that this Honorable Court enter an order:  
(a) dismissing Plaintiff’s THIRD Amended Complaint with prejudice and assessing costs against

Plaintiff and (b) providing such other and further relief that this Honorable Court deems necessary and appropriate.

Respectfully Submitted,

KIMBERLY M. FOXX  
State' Attorney of Cook County

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**CERTIFICATE OF SERVICE**

The undersigned, Jorie R. Johnson, an attorney, hereby certifies that on August 8, 2023 the foregoing document was electronically filed using the CM/ECF system, which sent a notice of Electronic Filing to all parties of record. I certify that in accordance with Fed. R. Civ. P. and LR 5.5 and the General Order on Electronic Case Filing (ECF), the foregoing was served upon All ECF users. There are no Non-EFC users to be served.

/S/ Jorie R. Johnson  
Jorie R. Johnson