

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION**

LARISSA WALSTON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2023-cv-50295
)	
SHERIFF OF WINNEBAGO COUNTY,)	Honorable Iain D. Johnston
WINNEBAGO COUNTY, OFFICER)	
MCKINNEY, #9155, OFFICER)	Magistrate Lisa A. Jensen
VURNOVAS, #7557, OFFICER)	
RYDEBERG, #6958, and SERGEANT)	
STEWART, #6436)	
)	
Defendants.)	

**UNOPPOSED MOTION FOR LEAVE TO AMEND ANSWER TO
ADD AFFIRMATIVE DEFENSE**

NOW COME the Defendants, Officer McKinney, Officer Vurnovas, Officer Rydeberg, and Sergeant Stewart, through their attorney, Assistant State's Attorney Charlotte A. Hoss, and pursuant to Rule 15(a) of the Federal Rules of Civil Procedure, move for leave to amend their Answer to add the affirmative defense of qualified immunity, and in support state as follows:

1. Plaintiff Larissa Walston filed her Amended Complaint on October 25, 2023, under Section 1983, 42 U.S.C. §1983, seeking damages for physical and emotional harm allegedly resulting from an unlawful strip search and excessive force while in the Winnebago County Jail. (See Dkt. #33). Plaintiff has also alleged a state law battery claim.

2. Plaintiff has named Defendants, Officer McKinney, Officer Vurnovas, Officer Rydeberg, and Sergeant Stewart, in their individual capacities.

3. Defendants, Officer McKinney, Officer Vurnovas, Officer Rydeberg, and Sergeant Stewart, wish to amend their Answer to Plaintiff's Amended Complaint to add the affirmative

defense of qualified immunity. A copy of Defendants' proposed amended answer and affirmative defense is attached hereto as Exhibit A.

4. Rule 15(a) of the Federal Rules of Civil Procedure allows a party to amend its pleading with the opposing party's written consent or with leave of court.

5. The deadline to file amended pleadings in this matter is April 26, 2024.

6. Counsel for Defendants has communicated with counsel for Plaintiff, who has indicated he does not object to Defendants' Motion for Leave to Amend.

WHEREFORE, Defendants, Officer McKinney, Officer Vurnovas, Officer Rydeberg, and Sergeant Stewart, respectfully request that this Court grant their Motion for Leave to Amend Answer to Add Affirmative Defense and grant such other and further relief as this Court deems equitable and just.

Dated: January 25, 2024

Respectfully submitted,

Officer McKinney, Officer Vurnovas, Officer Rydeberg,
and Sergeant Stewart, Defendants

BY: /s/ Charlotte A. Hoss
Charlotte A. Hoss
Assistant State's Attorney

CHARLOTTE A. HOSS, #6283345
Assistant State's Attorney
Winnebago County State's Attorney's Office
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400 West State Street, #804
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that she electronically filed the foregoing Unopposed Motion for Leave to Amend Answer to Add Affirmative Defense on January 25, 2024, with the Clerk of the U.S. District Court, using the CM/ECF system which will send notification of such filing to all parties of record:

Attorney Joel Flaxman
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/s/ Charlotte A. Hoss

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EXHIBIT A

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
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Plaintiff,)	
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MCKINNEY, #9155, OFFICER)	Magistrate Lisa A. Jensen
VURNOVAS, #7557, OFFICER)	
RYDEBERG, #6958, and SERGEANT)	
STEWART, #6436)	
)	
Defendants.)	

DEFENDANTS' AMENDED ANSWER AND AFFIRMATIVE DEFENSE TO
PLAINTIFF'S AMENDED COMPLAINT

NOW COME the Defendants, Sheriff of Winnebago County, Winnebago County, Officer McKinney, Officer Vurnovas, Officer Rydeberg, and Sergeant Stewart, by and through their attorney, Assistant State's Attorney Charlotte A. Hoss, and for their Amended Answer and Affirmative Defense to Plaintiff's Amended Complaint, respectfully state as follows:

1. This is a civil action arising under 42 U.S.C. § 1983. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1343 and § 1337.

ANSWER: Defendants admit the allegations contained in Paragraph 1 of Plaintiff's Amended Complaint.

2. Plaintiff Larissa Walston is a resident of the Northern District of Illinois.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2 of Plaintiff's Amended Complaint.

3. Defendant Sheriff of Winnebago County is sued in his official capacity.

ANSWER: Defendants admit the allegations contained in Paragraph 3 of Plaintiff's Amended Complaint.

4. Defendant Winnebago County is joined in this action pursuant to *Carver v. Sheriff of LaSalle County*, 324 F.3d 947 (7th Cir. 2003).

ANSWER: Defendants admit the allegations contained in Paragraph 4 of Plaintiff's Amended Complaint.

5. Defendants Officer McKinney, #9155, Officer Vurnovas, #7557, Officer Rydeberg, #6958, and Sergeant Stewart, #6436 ("correctional officer defendants"), were, at all relevant times, acting under color of their authority as correctional officers employed by the Sheriff of Winnebago County.

ANSWER: Defendants admit the allegations contained in Paragraph 5 of Plaintiff's Amended Complaint.

6. On November 15, 2022, plaintiff engaged in a public protest at a meeting of the Rockford District 205 School Board.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 6 of Plaintiff's Amended Complaint.

7. Police officers of the Rockford Police Department arrested plaintiff for the misdemeanor offense of criminal trespass to real property. Plaintiff does not raise any complaint about her arrest in this action.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 7 of Plaintiff's Amended Complaint.

8. Under Illinois law in effect on November 15, 2022, plaintiff had a right to be

released on bail by posting cash bond following her arrest.

ANSWER: No answer is necessary as Paragraph 8 states a legal conclusion. To the extent an answer is necessary, Defendants admit to the best of their knowledge and belief that under Illinois law in effect on November 15, 2022, plaintiff had a right to be released on bail by posting cash bond, but only after she completed the Winnebago County Jail booking process.

9. All persons arrested by the Rockford Police Department on misdemeanor offenses are transported to the Winnebago County Jail where they are permitted to post bond without being placed into the Jail's general population.

ANSWER: Defendants admit to the best of their knowledge and belief that all persons arrested by the Rockford Police Department on misdemeanor offenses are transported to the Winnebago County Jail where, prior to September 18, 2023, they were permitted to post bond without being placed into the Jail's general population after completing the Winnebago County Jail booking process.

10. The arresting officers took plaintiff to the Winnebago County Jail for processing at about 8:45 p.m. on November 15, 2022.

ANSWER: Defendants admit the allegations contained in Paragraph 10 of Plaintiff's Amended Complaint.

11. Each correctional officer defendant was personally involved in processing plaintiff at the Jail.

ANSWER: Defendants deny the allegations contained in Paragraph 11 of Plaintiff's Amended Complaint.

12. When she arrived at the jail, plaintiff was ready, willing, and able to immediately

post cash bond.

ANSWER: Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of Plaintiff's Amended Complaint.

13. The correctional officer defendants knew that plaintiff was ready, willing, and able to immediately post bond.

ANSWER: Defendants deny the allegations contained in Paragraph 13 of Plaintiff's Amended Complaint, but admit that Plaintiff advised them that she could post bond.

14. The correctional officers knew that, upon posting bond, plaintiff would be released without entering the general population of the Jail.

ANSWER: Defendants admit that if Plaintiff was able to post bond after completing the booking process, she would be released without being placed in the general population of the Jail.

15. In November of 2022, the law was clearly established that reasonable suspicion was required before jail officials could strip search an arrestee who was not entering the general population of the Jail.

ANSWER: No answer is necessary as Paragraph 15 states a legal conclusion. To the extent an answer is necessary, Defendants admit the allegations contained in Paragraph 15 of Plaintiff's Amended Complaint are accurate to the best of their knowledge and belief.

16. Shortly after plaintiff arrived at the Jail, one or more of the correctional officer defendants strip-searched plaintiff, and each of the other correctional officer defendants failed to intervene to prevent the violation of plaintiff's rights.

ANSWER: Defendants deny the allegations contained in Paragraph 16 of Plaintiff's

Amended Complaint.

17. None of the correctional officer defendants had reasonable suspicion to strip search of plaintiff.

ANSWER: Defendants admit the allegations contained in Paragraph 17 of Plaintiff's Amended Complaint.

18. Shortly after plaintiff arrived at the Jail, one or more of the correctional officer defendants used excessive and unreasonable force against plaintiff, and each of the other correctional officer defendants failed to intervene to prevent the violation of plaintiff's rights.

ANSWER: Defendants deny the allegations contained in Paragraph 18 of Plaintiff's Amended Complaint.

19. Rather than permitting plaintiff to post bond, the correctional officer defendants placed plaintiff in a holding cell, where she remained until about 8:00 a.m. on November 16, 2022, when plaintiff was finally allowed to bond out of the Jail.

ANSWER: Defendants admit that Plaintiff remained in the Jail until about 8:00 a.m. on November 16, 2022, when she was allowed to bond out after agreeing to complete the booking process. Defendants deny the remaining allegations contained in Paragraph 19 of Plaintiff's Amended Complaint.

20. As a result of the foregoing, plaintiff suffered physical and emotional harm, was deprived of rights secured by the Fourth Amendment to the Constitution of the United States, and was subjected to the Illinois tort of battery for which defendant Sheriff of Winnebago County is liable under the doctrine of *respondeat superior*.

ANSWER: Defendants deny the allegations contained in Paragraph 20 of Plaintiff's Amended Complaint.

21. Plaintiff hereby demands trial by jury.

ANSWER: No answer to Paragraph 20 is necessary.

AFFIRMATIVE DEFENSE

FIRST AFFIRMATIVE DEFENSE – QUALIFIED IMMUNITY

With respect to all claims alleged in Plaintiff's Amended Complaint under 42 U.S.C. §1983, Defendants, Officer McKinney, Officer Vurnovas, Officer Rydeberg, and Sergeant Stewart, in their individual capacities, had and have qualified immunity for any and all actions taken by them in that their actions were taken in good faith, were objectively reasonable under the circumstances, and did not violate any clearly established law.

WHEREFORE, for the foregoing reasons, the Defendants, Sheriff of Winnebago County, Winnebago County, Officer McKinney, Officer Vurnovas, Officer Rydeberg, and Sergeant Stewart, pray that this Court enter judgment in their favor, and against Plaintiff, with respect to the claims asserted in Plaintiff's Amended Complaint, with costs being assessed against Plaintiff, and grant such other and further relief as this Court deems equitable and just.

Demand for Trial by Jury

Defendants hereby demand a trial by jury on all claims in Plaintiff's Amended Complaint that are triable to a jury.

BY: /s/ Charlotte A. Hoss
Charlotte A. Hoss
Assistant State's Attorney

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CERTIFICATE OF SERVICE

I, Charlotte A. Hoss, Assistant State's Attorney for Winnebago County, Illinois, hereby certify I electronically filed the foregoing **AMENDED ANSWER AND AFFIRMATIVE DEFENSE TO AMENDED COMPLAINT** with the Clerk of the Court on January __, 2024, using the CM/ECF system which will send notification of such filing to the following CM/ECF participants:

Attorney Joel Flaxman
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/s/ Charlotte A. Hoss

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