

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

MARQUITA HENSON, as Mother and Legal)	
Guardian of J.H.S., a Minor,)	
)	
Plaintiff,)	Case No. 24-cv-2833
)	
v.)	
)	
KIARA BOGAN, VILLAGE OF LANSING, a)	
Municipal Corporation, THORNTON)	
FRACTIONAL TOWNSHIP HIGH SCHOOL)	
DISTRICT 215,)	
)	
Defendants.)	

ANSWER AND AFFIRMATIVE DEFENSES

NOW COME the Defendants, Kiara Bogan and the Village of Lansing (hereinafter the “*Defendants*”), by and through their attorneys, Montana & Welch, LLC, and hereby answer the Complaint of Plaintiff and asserts their Affirmative Defenses as follows:

JURISDICTION AND VENUE

1. This action arises under the Constitution of the United States, particularly the Fourth and Fourteenth Amendments to the Constitution of the United States, under the laws of the United States, particularly the Civil Rights Act, Title 42 of the United States Code, §§ 1983 and 1988, and under the laws of the State of Illinois.

ANSWER: Defendants admit the allegations contained in paragraph 1.

2. The jurisdiction of this Court is invoked under the provisions of Title 28 of the United States Code, §§ 1331 and 1343. Plaintiff also invokes the supplemental

jurisdiction of this Court pursuant to Title 28 of the United States Code, Section 1367.

ANSWER: Defendants admit the allegations contained in paragraph 2.

3. This Court has jurisdiction over this action pursuant to Title 28 of the United States Code §§ 1331 and 1367, as Plaintiff asserts claims under federal law and the state law claims arise out of the same facts as the federal claims. Venue is proper in the United States District Court for the Northern District of Illinois under Title 28 of the United States Code, § 1391(b)(2), as the events complained of occurred within this district.

ANSWER: Defendants admit the allegations contained in paragraph 3.

PARTIES

4. At all times relevant, Plaintiff MARQUITA HENSON (hereinafter “MARQUITA”) was the mother of J.H.S., a minor.

ANSWER: Defendants admit the allegations contained in paragraph 4.

5. At all times relevant, MARQUITA and J.H.S. were residents of the County of Cook, State of Illinois.

ANSWER: Defendants admit the allegations contained in paragraph 5.

6. At all times relevant herein, J.H.S. was a 17-year-old student attending Thornton Fractional South High School (“hereinafter “TFSHS”), located in Lansing, Illinois.

ANSWER: Defendants admit the allegations contained in paragraph 6.

7. Defendant KIARA BOGAN is sued in her individual capacity and was at all times relevant, a sworn police officer employed by Defendant VILLAGE OF LANSING and acting as a School Resource Officer for Defendant DISTRICT 215,

working specifically in TFSHS, and was acting within the scope of her agency, service and/or employment with the VILLAGE OF LANSING and DISTRICT 215, and was acting under color of the statutes, ordinances, regulations, customs, and usages of the State of Illinois.

ANSWER: Defendants deny that Defendant Kiara Bogan was acting within the scope of her agency, service and/or employment with DISTRICT 215 and admit the remainder of the allegations contained in paragraph 7.

8. Defendant VILLAGE OF LANSING is a municipal corporation operating within the State of Illinois. The VILLAGE OF LANSING is responsible for the actions of its employees while acting within the scope of their employment. At all times relevant to this action, VILLAGE OF LANSING was the employer of Defendant BOGAN.

ANSWER: Defendants admit the allegations contained in paragraph 8.

9. Defendant THORNTON FRACTIONAL TOWNSHIP HIGH SCHOOL DISTRICT 215 is a taxpayer-funded public school district and a government entity operating within the State of Illinois. DISTRICT 215 is responsible for the actions of its employees and agents while acting within the scope of their employment and their agency.

ANSWER: Defendants admit that THORNTON FRACTIONAL TOWNSHIP HIGH SCHOOL DISTRICT 215 is a school district as defined under the Illinois Constitution but lack knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in paragraph

FACTS

10. On March 7, 2024, around 8:15 a.m., a number of students were gathered in the TFSHS cafeteria waiting for the school day to begin.

ANSWER: Defendants admit the allegations contained in paragraph 10.

11. At or around that time, Defendant Bogan was walking between two tables in one direction, while J.H.S. was walking in the opposite direction toward Bogan.

ANSWER: Defendants admit the allegations contained in paragraph 11.

12. J.H.S. and Bogan walked by each other, with J.H.S. maneuvering his body to avoid contact with Bogan.

ANSWER: Defendants deny the allegations contained in paragraph 12.

13. As J.H.S. passed Bogan, Bogan shoved him, then told him to “[w]atch the fuck out.”

ANSWER: Defendants admit that Defendant Bogan shoved J.H.S but deny the remaining allegations of paragraph 13.

14. Shocked by what had just occurred, J.H.S. responded by issuing an epithet to Bogan.

ANSWER: Defendants admit that J.H.S issued an epithet to Defendant Bogan but lack knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in paragraph 13.

15. Bogan stepped toward J.H.S. aggressively, while an unidentified student put his or her hand on Bogan’s shoulder as if to stop her from going after J.H.S.

ANSWER: Defendants admit that Defendant Bogan approached J.H.S. but deny the remaining allegations of paragraph 15.

16. Bogan repeatedly told J.H.S. to “Say ‘excuse me’ next time.”

ANSWER: Defendants admit that Defendant Bogan stated, “Say ‘excuse me’ next time”, but deny the remaining allegations of paragraph 16.

17. A school official arrived and scolded J.H.S., telling him something to the effect that “That’s a cop, you don’t get to say that.”

ANSWER: Defendants admit that a school official arrived but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 17.

18. Bogan threatened to tase J.H.S.

ANSWER: Defendants admit the allegations contained in paragraph 18.

19. As J.H.S. and the school official walked away from Bogan, Bogan followed, yelling at J.H.S., “Don’t make me put you down.”

ANSWER: Defendants deny the allegations contained in paragraph 19.

20. Bogan continued to engage with and threaten J.H.S. as he walked away.

ANSWER: Defendants deny the allegations contained in paragraph 20.

21. The incident was captured on the school’s surveillance video system.

ANSWER: Defendants admit the some of the interaction between J.H.S. and Defendant Bogan was captured on the school’s surveillance video system.

22. J.H.S. came home after school and informed his mother, Marquita, what had occurred.

ANSWER: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 22.

23. Marquita immediately went to the high school to inquire about the incident. She met the school principal, Jake Gourley, and asked him about it.

ANSWER: Defendants lack knowledge or information sufficient to form a

belief about the truth of the allegations contained in paragraph 23.

24. Marquita informed Gourley that her son had stated there are video cameras in the cafeteria that would have captured the incident and asked him to pull the video of the incident.

ANSWER: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 24.

25. Principal Gourley told Marquita he had not been informed of the incident and asked her to return the following morning.

ANSWER: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 25.

26. Marquita went to the school the following morning, a Friday, and met with Principal Gourley and Defendant Bogan.

ANSWER: Defendants admit that Marquita met with Principal Gourley and Defendant Bogan but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations.

27. In that meeting, Bogan claimed J.H.S. had seen her and bumped into her on purpose.

ANSWER: Defendants deny the allegations contained in paragraph 27.

28. Bogan also informed Marquita that the next time this happened, she would arrest J.H.S.

ANSWER: Defendants admit the allegations contained in paragraph 28.

29. Marquita asked Bogan if she had the right to put her hands on a

student who may have accidentally bumped into her.

ANSWER: Defendants deny the allegations contained in paragraph 29.

30. Bogan replied that she had that right because she was a police officer.

ANSWER: Defendants deny the allegations contained in paragraph 30.

31. Bogan told Marquita she could file a complaint if she had a problem with Bogan's actions.

ANSWER: Defendants admit the allegations contained in paragraph 31.

32. When Marquita asked Principal Gourley if he felt that Bogan's actions were appropriate, he stated he was not a police officer and would not comment on whether it was appropriate.

ANSWER: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 32.

33. On information and belief, Bogan also claimed to her supervisor at the Lansing Police Department that J.H.S. bumped into her on purpose.

ANSWER: Defendants deny the allegations contained in paragraph 33.

34. Bogan's claims were false.

ANSWER: Defendants deny the allegations contained in paragraph 34.

35. J.H.S. never bumped into Bogan, intentionally or otherwise.

ANSWER: Defendants deny the allegations contained in paragraph 35.

36. In fact, J.H.S. made a concerted attempt to avoid any contact with Bogan.

ANSWER: Defendants deny the allegations contained in paragraph 36.

37. The contact between Bogan and J.H.S. was initiated entirely by Bogan.

ANSWER: Defendants deny the allegations contained in paragraph 37.

38. During the Friday meeting, when Marquita asked Principal Gourley about video footage of the incident, he told her it would take 24 to 48 hours to retrieve the video, and that maybe it would be available Monday.

ANSWER: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 38.

39. Gourley's claim was false. The video was available at that very moment.

ANSWER: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 39.

40. At the end of the meeting, Marquita told Bogan not to put her hands on her son again. Bogan replied by calling Marquita "crazy".

ANSWER: Defendants deny the allegations contained in paragraph 40.

41. Principal Gourley told Marquita to leave the building.

ANSWER: Defendants admit the allegations contained in paragraph 41.

42. Marquita left the school and went directly to the Lansing police station, where Police Sergeant Joe Pomilia told Marquita he had spoken with Bogan, who told him J.H.S. had bumped into her on purpose.

ANSWER: Defendants admit the allegations contained in paragraph 42.

43. When Marquita inquired about filing a complaint, Pomilia suggested that she wait until she saw the video of the incident.

ANSWER: Defendants admit the allegations contained in paragraph 43.

44. Later, at Sgt. Pomilia's request, Marquita went to the school and met with Sgt. Pomilia and Principal Gourley.

ANSWER: Defendants admit the allegations contained in paragraph 44.

45. Pomilia told her he had seen the video, and that Bogan was in the wrong.

ANSWER: Defendants deny the allegations contained in paragraph 45.

46. Pomilia asked Marquita to view Bogan's actions "in context", informing Marquita that Bogan had just broken up a disturbance before her altercation with J.H.S., that she lost her cool, and that she has a very high-stress job.

ANSWER: Defendants deny the Pomilia stated that "she lost her cool" but admits the remaining allegations contained in paragraph 46.

47. Marquita repeatedly requested to see the video, but Sgt. Pomilia repeatedly suggested that he bring Defendant Bogan in to apologize to Marquita and J.H.S. before Marquita would see the video.

ANSWER: Defendants deny the allegations contained in paragraph 47.

48. Marquita insisted on seeing the video first.

ANSWER: Defendants deny the allegations contained in paragraph 48.

49. Pomilia reluctantly agreed to allow Marquita to see the video.

ANSWER: Defendants deny the allegations contained in paragraph 49.

50. When Marquita watched the video – which Gourley had previously told

her would not be available until the following Monday – she saw that Bogan had pushed her son without provocation, and that Bogan had lied to her, and to Sgt. Pomilia, about the incident.

ANSWER: Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 50.

51. Despite the fact that a TFSHS student was assaulted by a uniformed School Resource Officer in the school – and it was captured on video – neither the school nor the district generated a single report or other written documentation of the officer’s assault on J.H.S.

ANSWER: Defendants deny the allegations contained in paragraph 51.

52. As of March 14, Defendant Bogan was still on active duty and still assigned to TFSHS, where J.H.S. saw her, despite the fact that the school administration as well as Bogan’s superiors had viewed the video and were aware of her misconduct.

ANSWER: Defendants admit that as of March 14, Defendant Bogan was still on active duty and still assigned to TFSHS but deny the remaining allegations contained in paragraph 52.

COUNT I – FEDERAL CLAIM EXCESSIVE FORCE DEFENDANT BOGAN

53. Each paragraph of this Complaint is incorporated as if restated fully herein.

ANSWER: Defendants adopt and incorporate its answer to each paragraph of this

Complaint as if restated fully herein.

54. J.H.S. did nothing to justify Bogan's violent actions or her abusive and threatening words.

ANSWER: Defendants deny that Defendant Kiara Bogan's actions were violent and that her words were abusive and further deny that J.H.S. did nothing at the relevant time.

55. J.H.S. did not threaten, attack, or otherwise place Bogan or anyone else in imminent fear of harm.

ANSWER: Defendants deny the allegations contained in paragraph 55.

56. Bogan had no probable cause or reasonable suspicion to believe J.H.S. posed a threat to anyone or that he was involved in criminal activity.

ANSWER: Defendants deny the allegations contained in paragraph 56.

57. The force used by Defendant Bogan against J.H.S. was excessive, unnecessary, and objectively unreasonable.

ANSWER: Defendants deny the allegations contained in paragraph 57.

58. The actions of Defendant Bogan constituted unreasonable, unjustifiable, and excessive force against J.H.S., violating his rights under the Fourth Amendment to the United States Constitution.

ANSWER: Defendants deny the allegations contained in paragraph 58.

59. As a direct and proximate result of Defendant Bogan's conduct, J.H.S. suffered emotional trauma, physical and mental pain and suffering, anxiety, and humiliation, and will continue to suffer many of these conditions in the future.

ANSWER: Defendants deny the allegations contained in paragraph 59.

WHEREFORE, Defendants, Kiara Bogan and the Village of Lansing, request judgment in its favor and against Plaintiff with costs assessed against Plaintiff and in favor of the Defendants, and for such other relief as this Court deems just and proper.

COUNT II – STATE CLAIM ASSAULT
DEFENDANTS BOGAN, VILLAGE OF LANSING, THORNTON FRACTIONAL
TOWNSHIP HIGH SCHOOL DISTRICT 215

60. Each paragraph of this Complaint is incorporated as if restated fully herein.

ANSWER: Defendants adopt and incorporate its answer to each paragraph of this Complaint as if restated fully herein.

61. Defendant Bogan, and Defendants VILLAGE OF LANSING and THORNTON FRACTIONAL TOWNSHIP HIGH SCHOOL DISTRICT 215, by and through their agent Defendant Bogan, without lawful authority, knowingly engaged in conduct that placed J.H.S. in reasonable apprehension of receiving a battery, committing assault under Illinois law.

ANSWER: Defendants deny the allegations contained in paragraph 61.

62. As a direct and proximate result of Defendants' conduct, J.H.S. suffered emotional trauma, physical and mental pain and suffering, anxiety, and humiliation, and will continue to suffer many of these conditions in the future.

ANSWER: Defendants deny the allegations contained in paragraph 62.

WHEREFORE, Defendants, Kiara Bogan and the Village of Lansing, request judgment in its favor and against Plaintiff with costs assessed against Plaintiff and in favor of the Defendants, and for such other relief as this Court deems just and

proper.

COUNT III – STATE CLAIM BATTERY
**DEFENDANTS BOGAN, VILLAGE OF LANSING, THORNTON FRACTIONAL
TOWNSHIP HIGH SCHOOL DISTRICT 215**

63. Each paragraph of this Complaint is incorporated as if restated fully herein.

ANSWER: Defendants adopt and incorporate its answer to each paragraph of this Complaint as if restated fully herein.

64. Defendant Bogan, and Defendants VILLAGE OF LANSING, and THORNTON FRACTIONAL TOWNSHIP HIGH SCHOOL DISTRICT 215, by and through their agent Defendant Bogan, knowingly and without legal justification or permission, harmfully and/or offensively touched J.H.S., committing battery under Illinois law.

ANSWER: Defendants deny the allegations contained in paragraph 64.

65. As a direct and proximate result of Defendants' conduct, J.H.S. suffered emotional trauma, physical and mental pain and suffering, anxiety, and humiliation, and will continue to suffer many of these conditions in the future.

ANSWER: Defendants deny the allegations contained in paragraph 65.

COUNT IV – STATE CLAIM INDEMNIFICATION
**VILLAGE OF LANSING, THORNTON FRACTIONAL TOWNSHIP HIGH SCHOOL
DISTRICT 215**

66. Each paragraph of this Complaint is incorporated as if restated fully herein.

ANSWER: Defendants adopt and incorporate its answer to each paragraph of this Complaint as if restated fully herein.

67. At all relevant times, Defendant VILLAGE OF LANSING was the employer of Defendant Bogan.

ANSWER: Defendants admit the allegations contained in paragraph 67.

68. At all relevant times, Defendant Bogan was the agent of THORNTON

FRACTIONAL TOWNSHIP HIGH SCHOOL DISTRICT 215 and was acting within the scope of her agency.

ANSWER: Defendants deny the allegations contained in paragraph 68.

69. Defendant Bogan committed the acts alleged above under color of law and in the scope of her employment as an employee of the Defendant VILLAGE OF LANSING, and in the scope of her agency as agent of THORNTON FRACTIONAL TOWNSHIP HIGH SCHOOL DISTRICT 215.

ANSWER: Defendants deny the allegations contained in paragraph 69.

70. Illinois law provides that governmental entities are directed to pay any tort judgment for any damages for which employees are liable within the scope of their employment activities.

ANSWER: Defendants deny the allegations contained in paragraph 70.

71. Should Defendant Bogan be found liable on one or more of the claims set forth above, Plaintiff Marquita Henson, as Mother and Legal Guardian of J.H.S., pursuant to Illinois law, requests that her employer, Defendant VILLAGE OF LANSING, as well as THORNTON FRACTIONAL TOWNSHIP HIGH SCHOOL DISTRICT 215, be found liable for any judgment plaintiff obtains against Defendant Bogan, as well as attorney's fees and costs awarded, and for any additional relief this Court deems just and proper.

ANSWER: Defendants deny the allegations contained in paragraph 71.

WHEREFORE, Defendants, Kiara Bogan and the Village of Lansing, request judgment in its favor and against Plaintiff with costs assessed against Plaintiff and in favor of the Defendants, and for such other relief as this Court deems just and proper.

AFFIRMATIVE DEFENSE

NOW COME Defendants, Kiara Bogan and the Village of Lansing, by and through their attorneys, Montana & Welch, LLC, and hereby set forth their affirmative defenses to Plaintiff's First Amended Complaint as follows:

1. At all relevant times Defendant Bogan was a government official, namely a police officer, who performed discretionary functions under the color of law. At all relevant times, a reasonable police officer objectively viewing the facts and circumstances that confronted Defendant Quinones could have believed their actions to be lawful, in light of clearly established law and the information that he possessed. Defendant Bogan, therefore, is entitled to qualified immunity.

WHEREFORE, Defendants, Kiara Bogan and the Village of Lansing, request judgment in its favor and against Plaintiff with costs assessed against Plaintiff and in favor of the Defendants, and for such other relief as this Court deems just and proper.

Defendants reserve the right to supplement these affirmative defenses as more information becomes available through litigation in this matter.

Pursuant to Fed. R. Civ. P. 38 Defendants demand trial by jury for all claims triable by jury.

Respectfully submitted,

/s/:Thomas J. Condon, Jr.
One of Defendants Attorney

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