

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO

TIMBERLYNN FLOYD,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 4:26-cv-00208-GNS
)	
CHIP STAUFFER, et al.)	
)	
Defendants.)	

DEFENDANTS’ MOTION TO DISMISS

Come Defendants, Chief Billy Bolin, Lieutenant Kyle Stone, Officer Treg Duvall, Officer Elam Coots, and Officer Noah Howell, by Counsel, and hereby respectfully move to dismiss all of Plaintiff’s claims asserted against them pursuant to Fed.R.Civ.P. 12(b)(6). In support of this Motion, these Defendants state as follows:

I. INTRODUCTION.

This litigation arises out of an attempted traffic stop of a vehicle in Henderson, Kentucky on July 10, 2025. Plaintiff was a passenger in the vehicle, and it was registered to her. Henderson Police Department Officer Noah Howell attempted to stop the vehicle for expired registration, but it fled. Ultimately, Henderson County Deputy Gary Jones took over the alleged pursuit of the vehicle and fired gunshots toward it. Plaintiff alleges that she sustained a gunshot wound as a result.

Plaintiff asserts causes of action for violation of her Fourth Amendment rights under 42 U.S.C. § 1983, for failures to train and supervise under *Monell v. Dep’t of Soc. Svcs.*, 436 U.S. 658 (1978), and for negligence under Kentucky law against these Defendants. Yet, based on the

allegations of the Complaint, these Defendants did not use force upon Plaintiff or the vehicle in which she was a passenger, and did not fail to intervene to prevent any complained of use of force. Nor did these Defendants proximately cause Plaintiff's claimed injuries and damages. Consequently, Plaintiff's Complaint fails to state a claim upon which relief can be granted.

II. PLAINTIFF'S FACTUAL AND LEGAL ALLEGATIONS.¹

When Officer Howell attempted to stop Plaintiff's vehicle, Plaintiff concedes that the vehicle did not stop. *See* Dkt. 1, ¶¶ 21-26. Plaintiff further concedes that Officer Howell did not pursue the vehicle. *See id.*

According to the Complaint, Lt. Kyle Stone saw the vehicle as it was fleeing the attempted stop and pursued the vehicle. *See* Dkt. 1, ¶¶ 27-34. Officer Treg Duvall and Officer Elam Coots also pursued the vehicle. *See* Dkt. 1, ¶¶ 38, 41.

Lt. Stone requested that a Henderson County Sheriff's Deputy assume pursuit of the vehicle. *See* Dkt. 1, ¶ 47. Thereafter, Deputy Gary Jones from the Henderson County Sheriff's Department passed Lt. Stone and took over the pursuit. *See* Dkt. 1, ¶ 48. Deputy Jones' pursuit was purportedly authorized by Henderson County Sheriff's Office Sergeant Joshua Hendrickson. *See* Dkt. 1, ¶ 49.

As Deputy Jones was pursuing the vehicle, he attempted a PIT maneuver. *See* Dkt. 1, ¶ 53. In that course of events, Plaintiff's vehicle struck a curb in a roundabout. *See* Dkt. 1, ¶ 57. Deputy Jones exited his vehicle and yelled "stop." *See* Dkt. 1, ¶ 58. Deputy Jones then fired four (4) gunshots from his duty weapon which Lt. Stone witnessed from his police vehicle. *See* Dkt. 1, ¶¶

¹ For purposes of this Motion only, Plaintiff's factual allegations must be accepted as true under pertinent law. Still, the Court need not accept Plaintiff's legal conclusions, and need not credit threadbare recitals of the elements of a cause of action.

59-64. Plaintiff, who was a passenger in the fleeing vehicle, purportedly sustained a gunshot wound to her leg. *See* Dkt. 1, ¶¶ 65-66.

Based on these allegations, Plaintiff asserts that Lt. Stone, Officer Duvall, Officer Coots, and Officer Howell used objectively unreasonable deadly force against Plaintiff in violation of her rights protected by the Fourth Amendment. *See* Dkt. 1, ¶¶ 78, 80. In a similar vein, she asserts that Henderson Police Chief Billy Bolin maintained policies, customs, and failures to train and supervise Lt. Stone, Officer Howell, Officer Duvall, and Officer Coots which were the moving force behind the alleged constitutional violation. *See* Dkt. 1, ¶¶ 82.

Plaintiff's state law negligence claim is based upon the purported duty owed to her to refrain from initiating or continuing an unauthorized pursuit and from using deadly force without justification. *See* Dkt. 1, ¶ 91. The alleged breach of this duty purportedly proximately caused Plaintiff's claimed injuries and resulting damages. *See* Dkt. 1, ¶ 92.

Critically, however, the allegations of the Complaint establish that neither Lt. Stone, Officer Howell, Officer Duvall, nor Officer Coots used any force, much less deadly force, against Plaintiff. This is fatal to her § 1983 and *Monell* claims. Just as critically, the allegations of the Complaint establish that Deputy Jones engaged in multiple superseding, intervening, discretionary acts which caused Plaintiff's claimed injuries and damages. Accordingly, Plaintiff cannot state a claim for relief against these Defendants as a matter of law.

III. STANDARD OF REVIEW.

A complaint must include "a short and plain statement of the claim showing that the pleader is entitled to relief" in order to survive a motion to dismiss. Fed. R. Civ. P. 8(a)(2). In reviewing a motion to dismiss, "a district court must (1) view the complaint in the light most favorable to the plaintiff and (2) take all well-pleaded factual allegations as true." *Tackett v. M & G Polymers*,

USA, LLC, 561 F.3d 478, 488 (6th Cir. 2009) (citing *Gunasekera v. Irwin*, 551 F.3d 461, 466 (6th Cir. 2009) (citations omitted)).

In *Bell Atlantic Corp. v. Twombly*, the United States Supreme Court explained that the complaint must allege facts that are “enough to raise a right to relief above the speculative level.” 550 U.S. 544, 555 (2007). Although “detailed factual allegations” are not required, mere “labels,” “conclusions,” or “formulaic recitation[s] of the elements of a cause of action” are insufficient. *Id.*

Stated another way, the plaintiff must supply “factual allegations in the complaint need to be sufficient to give notice to the defendant as to what claims are alleged, and the plaintiff must plead ‘sufficient factual matter’ to render the legal claim plausible, i.e., more than merely possible.” *Fritz v. Charter Twp. of Comstock*, 592 F.3d 718, 722 (6th Cir. 2010) (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 677 (2007)). To be facially plausible, the complaint must allow “the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678 (2009) (citing *Twombly*, 550 U.S. at 556).

This standard still permits courts to “disregard bare legal conclusions and naked assertion[s]” and “afford[] the presumption of truth only to genuine factual allegations.” *Dakota Girls, LLC v. Phila. Indem. Ins. Co.*, 17 F.4th 645, 648 (6th Cir. 2021). Further, a court may not “credit a [t]hreadbare recital of the elements of a cause of action ... supported by mere conclusory statements.” *Id.*

IV. LAW AND ARGUMENT.

a. PLAINTIFF’S COMPLAINT FAILS TO STATE A VIABLE EXCESSIVE FORCE § 1983 CLAIM AGAINST THESE DEFENDANTS.

“Section 1983 does not allow a plaintiff to seek damages from one state actor based on another state actor's constitutional violations.” *Blackwell v. Nocerini*, 123 F.4th 479, 488 (6th Cir.

2024) (citing *Blick v. Ann Arbor Pub. Sch. Dist.*, 105 F.4th 868, 876 (6th Cir. 2024) and *Jane Doe v. Jackson Loc. Sch. Dist. Bd. of Educ.*, 954 F.3d 925, 934–35 (6th Cir. 2020)). Conversely, “Section 1983 imposes liability only on a defendant who was personally involved in the unconstitutional action that caused the plaintiff’s injury.” *Pineda v. Hamilton Cnty.*, 977 F.3d 483, 491 (6th Cir. 2020). An official’s “involvement cannot be characterized as ‘mere presence’ nor as ‘mere backup.’” *Hall v. Shipley*, 932 F.2d 1147, 1154 (6th Cir. 1991). Individual liability “must be based on the actions of that defendant in the situation that the defendant faced, and not based on any problems caused by the errors of others, either defendants or non-defendants.” *Gibson v. Matthews*, 926 F.2d 532, 535 (6th Cir. 1991).

Thus, Section 1983 imposes liability on officials who “subject[], or cause[] to be subjected” any citizen to a deprivation of their constitutional rights. *Frenchko v. Monroe*, 160 F.4th 784, 800 (6th Cir. 2025). The Sixth Circuit has explained that this means “the causal connection between the [official’s] actions and the alleged constitutional violation” determines whether the official had an ‘active role’ in the unlawful conduct. *Id.* (quoting *Sexton v. Cernuto*, 18 F.4th 177, 185 (6th Cir. 2021)).

The Fourth Amendment protects individuals against unreasonable searches and seizures. U.S. Const. Amend. IV. “A seizure is ‘unreasonable’ under the Fourth Amendment if officers used excessive force.” *Puskas v. Delaware County*, 56 F.4th 1088, 1093 (6th Cir. 2023) (citation omitted). Not “every physical contact between a government employee and a member of the public” is a Fourth Amendment seizure. *Kilnapp v. City of Cleveland*, 167 F.4th 909, 920 (6th Cir. 2026) (quoting *Torres v. Madrid*, 592 U.S. 306, 317 (2021)). Instead, a “seizure requires the use of force with intent to restrain. Accidental force will not qualify ... nor will force intentionally applied for some other purpose.” *Id.*

In the present case, there are no factual allegations that Lt. Stone, Officer Howell, Officer Duvall, or Officer Coots ever used force upon Plaintiff or upon the vehicle Plaintiff was a passenger in. The only allegations of force concern Deputy Jones' PIT maneuver as well as the firing of his duty weapon. These Defendants cannot be liable for those uses of force given that Deputy Jones is another state actor. Given that these Defendants were not personally involved in the application of force in this case, they cannot be liable for Plaintiff's excessive force claim under the Fourth Amendment.

b. PLAINTIFF'S COMPLAINT FAILS TO STATE A VIABLE FAILURE TO INTERVENE CLAIM UNDER § 1983.

“In some cases, officers can be liable for a Fourth Amendment excessive force violation when they were not the ones who actively struck” – or, in this case, shot – “the plaintiff.” *Goodwin v. City of Painesville*, 781 F.3d 314, 328 (6th Cir. 2015). To that end, a police officer may be liable for failing to intervene during the application of excessive force when “(1) the officer observed or had reason to know that excessive force would be or was being used; and (2) the officer had both the opportunity and the means to prevent the harm from occurring.” *Turner v. Scott*, 119 F.3d 425, 429 (6th Cir. 1997). The Sixth Circuit has recognized “no duty to intervene” where an incident unfolds in a matter of seconds. *Napper v. Hankinson*, 617 F.Supp.3d 703, 749 (W.D. Ky. 2022) (quotation omitted).

To the extent Plaintiff's Complaint in the present case is construed to assert a failure to intervene claim against these Defendants, there is no such viable claim. Officer Howell, Officer Duvall, and Officer Coots did not observe Deputy Jones fire his duty weapon. While Lt. Stone observed the shooting, the allegations demonstrate that he was operating his police vehicle when Deputy Jones – a law enforcement officer from a different agency – was outside of his vehicle.

The shooting then occurred within a matter of seconds. Consequently, Lt. Stone neither had the opportunity or the means to prevent the shooting from occurring.

Furthermore, the allegations of the Complaint establish that Lt. Stone had no reason to know that purported excessive force would be or was being used. Indeed, the Complaint establishes that Lt. Stone audibly stated “What the fuck” when Deputy Jones fired his duty weapon. With no reason to know that purported excessive force was being used or would be used and with no opportunity or means of preventing the same, Plaintiff’s Complaint fails to state a failure to intervene claim.

c. PLAINTIFF’S COMPLAINT FAILS TO STATE A VIABLE MONELL CLAIM AND FAILURE TO TRAIN AND SUPERVISE CLAIM.

To state a § 1983 claim based upon a City policy or custom, Plaintiff must “identify the policy, connect the policy to [the City] itself and show that the particular injury was incurred because of the execution of that policy.” *Garner v. Memphis Police Dep’t*, 8 F.3d 358, 364 (6th Cir. 1993). A plaintiff generally has four (4) ways to demonstrate an unlawful policy or custom: “[t]he plaintiff can look to (1) the municipality’s legislative enactments or official agency policies; (2) actions taken by officials with final decision-making authority; (3) a policy of inadequate training or supervision; or (4) a custom of tolerance or acquiescence of federal rights violations.” *Spears v. Ruth*, 589 F.3d 249, 256 (6th Cir. 2009) (quoting *Thomas v. City of Chattanooga*, 398 F.3d 426, 429 (6th Cir. 2005)).

“Even after showing an unlawful policy or custom, a plaintiff must also demonstrate a direct causal link between the policy and the alleged constitutional violation in order to show that the municipality’s deliberate conduct can be deemed the ‘moving force’ behind the violation.” *Jones v. Louisville/Jefferson Cnty. Metro Gov’t*, 482 F. Supp. 3d 584, 597 (W.D. Ky.

2020). “[P]roof merely that such a policy or custom was ‘likely’ to cause a particular violation is not sufficient; there must be proven at least an ‘affirmative link’ between policy or custom and violation; in tort principle terms, the causal connection must be ‘proximate,’ not merely ‘but-for’ causation-in-fact.” *Mann v. Helmig*, 289 Fed. App'x 845, 850 (6th Cir. 2008).

Fatal to Plaintiff’s claims, there “can be no liability under *Monell* without an underlying constitutional violation.” *Robertson v. Lucas*, 753 F.3d 606, 622 (6th Cir. 2014).

In the case at bar, there is no underlying constitutional violation which was caused by Henderson Police Department officers given that no officer used force upon Plaintiff or her vehicle, and no officer failed to intervene to prevent the use of such force. Consequently, there is no viable *Monell* claim asserted against these Defendants.

Moreover, the only factual allegation concerning Chief Bolin is that he “is the Chief of the Police for the Henderson Police Department.” *See* Dkt. 1, ¶ 13. He is not even alleged to be the City’s final policymaker. To that end, the remaining allegations concerning Chief Bolin are pure legal conclusions, including that he purportedly “maintained policies, customs, and failures to train and supervise that were the moving force behind the constitutional violation” and “was deliberately indifferent to the Constitutional rights and safety of the public, including the Plaintiff in his failure to train and supervise Defendants Howell, Stone, Duvall and Coots.” *See* Dkt. 1, ¶¶ 82, 85. Those allegations fail to plausibly allege an unconstitutional policy, custom, or practice which was the moving force behind Plaintiff’s alleged constitutional violation, as well as Chief Bolin’s personal liability for purported failures to train and supervise.

To prevail on a “failure to train or supervise claim, the plaintiff must prove the following: (1) the training or supervision was inadequate for the tasks performed; (2) the inadequacy was the result of the municipality's deliberate indifference; and (3) the inadequacy was closely related to

or actually caused the injury.” *Ellis ex rel. Pendergrass v. Cleveland Mun. Sch. Dist.*, 455 F.3d 690, 700 (6th Cir. 2006). A plaintiff must plausibly allege “deliberate indifference to constitutional rights,” not just any harm. *Arrington-Bey v. City of Bedford Heights*, 858 F.3d 988, 994 (6th Cir. 2017). And the constitutional right asserted “must be clearly established[,] because a municipality cannot deliberately shirk a constitutional duty unless that duty is clear.” *Id.* at 995.

To establish personal liability for alleged failure to train and supervise:

[t]here must be a showing that the supervisor encouraged the specific incident of misconduct or in some other way directly participated in it. *At a minimum, a § 1983 plaintiff must show that a supervisory official at least implicitly authorized, approved or knowingly acquiesced in the unconstitutional conduct of the offending subordinate.*

Coley v. Lucas County, Ohio, 799 F.3d 530, 541-42 (6th Cir. 2015) (quoting *Taylor v. Michigan Dep’t of Corr.*, 69 F.3d 76, 81 (6th Cir. 1995)) (emphasis in original).

Here, there are no allegations that Chief Bolin encouraged, implicitly authorized, approved, or knowingly acquiesced in any unconstitutional conduct. There are no allegations that Chief Bolin was even aware that a pursuit was taking place or that Deputy Jones fired his duty weapon. Consequently, Plaintiff has failed to state a viable claim for failure to train and supervise as well.

d. PLAINTIFF’S COMPLAINT FAILS TO STATE A VIABLE NEGLIGENCE CLAIM UNDER KENTUCKY LAW.

The elements of a negligence claim under Kentucky law are (1) a legally-cognizable duty, (2) a breach of that duty, (3) causation linking the breach to an injury, and (4) damages. *Patton v. Bickford*, 529 S.W.3d 717, 729 (Ky. 2016). Causation consists of two distinct components – “but for” causation and proximate (legal) causation. *Id.* at 730.

“Proximate causation captures the notion that, although conduct in breach of an established duty may be a but-for cause of the plaintiffs damages, it is nevertheless too attenuated from the damages in time, place, or foreseeability to reasonably impose liability upon the defendant.”

Patton, 529 S.W.3d at 731. “Proximate cause is bottomed on public policy as a limitation on how far society is willing to extend liability for a defendant's actions.” *Id.* (quoting *Ashley County, Arkansas, v. Pfizer, Inc.*, 552 F.3d 659, 671 (8th Cir. 2009)). Therefore, “proximate causation is regarded as an issue of law to be decided by the courts.” *Id.*

A critical component of the “proximate causation analysis is the superseding intervening cause doctrine.” *Id.* (citing Restatement (Second) of Torts §§ 440-453). Like the determination of proximate cause generally, “whether an undisputed act or circumstance was or was not a superseding cause is a legal issue for the court to resolve, and not a factual question for the jury.” *House v. Kellerman*, 519 S.W.2d 380, 382 (Ky 1974). “By its nature, the question must be decided empirically, on a case-by-case basis, and cannot be practically fitted into instructions to juries.” *Id.*

The superseding intervening cause doctrine is applied by determining whether the chain of causation applicable to a defendant's conduct has been broken by “facts [that] are legally sufficient to constitute an intervening cause.” *Montgomery Elevator Company v. McCullough*, 676 S.W.2d 776, 780 (Ky. 1984). Facts sufficient to constitute a superseding intervening cause “relieve the original wrongdoer of liability to the ultimate victim.” *Id.*

Most pertinently here, “negligent conduct does not give rise to liability where the harm results from the independent, intentional, or criminal actions of a third party unless those actions were a foreseeable and natural consequence of the defendant's breach.” *Napper v. Goodlett*, 2025 WL 1774616, at *5 (Ky. Ct. App. June 27, 2025) (citing *Bruck v. Thompson*, 131 S.W.3d 764, 766 (Ky. App. 2004) and *Howard v. Spradlin*, 562 S.W.3d 281, 286 (Ky. App. 2018)). Therefore, when a causal chain is “interrupted by multiple discretionary decisions made by other officers ...[t]hese

independent decisions constitute superseding causes that break the chain of proximate causation under Kentucky law.” *Id.* (citing *Pile v. City of Brandenburg*, 215 S.W.3d 36, 42-43 (Ky. 2006)).

Importantly, the decision to use deadly force is “an inherently discretionary act[.]” *Morales v. City of Georgetown*, 709 S.W.3d 146, 156 (Ky. 2024). That is because law enforcement officers are often “forced to make a split-second decision whether or not to fire [their] own weapon,” and the considerations they face are “obviously exercises in ‘personal deliberation, decision, and judgment.’” *Id.* (quotation omitted).

Taking the allegations of Plaintiff’s Complaint as true for present purposes, the chain of causation which purportedly began with these Defendants’ conduct was broken by multiple discretionary decisions of Deputy Jones and the Henderson County Sheriff’s Office which were the superseding intervening cause of Plaintiff’s claimed injuries and damages. The pursuit of the vehicle was allegedly started by Henderson Police Department officers. Yet, Deputy Jones took over the pursuit which was authorized by Henderson County Sheriff’s Office Sergeant Joshua Hendrickson.

When Deputy Jones took over the alleged pursuit, he engaged in discretionary decision making void of any input or action by these Defendants, including an attempted PIT maneuver. He then decided to use deadly force by firing his duty weapon towards the vehicle. Under pertinent Kentucky law, these independent decisions constitute superseding intervening causes which break the chain of proximate causation. Given that these Defendants did not proximately cause Plaintiff’s claimed injuries and damages, they cannot be liable for Plaintiff’s negligence claim under Kentucky law.

e. **PLAINTIFF’S PUNITIVE DAMAGES CAUSE OF ACTION IS NOT A STANDALONE CLAIM FOR RELIEF.**

“A claim for punitive damages is not a separate cause of action, but a remedy potentially available for another cause of action.” *Smith v. Westlake Vinyls, Inc.*, 403 F.Supp.3d 625, 635-36 (W.D. Ky. 2019) (quoting *Dalton v. Animas Corp.*, 913 F.Supp.2d 370, 378 (W.D. Ky. 2012)). When underlying causes of action are dismissed, a “claim for punitive damages has nothing on which to attach itself and must also be dismissed.” *Id.*

Moreover, punitive damages are not recoverable against a municipality under § 1983 and Kentucky law. *See, e.g., Daugherty v. Louisville-Jefferson County Metro Government*, 495 F.Supp.3d 513, 520 (W.D. Ky. 2020). “A municipality is immune from punitive damages under 42 U.S.C. § 1983.” *Id.* (quoting *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981)). And a municipality “is immune from punitive damages in state-law claims.” *Id.* (collecting cases).

Here, Plaintiff’s cause of action for punitive damages is not a standalone cause of action. Nevertheless, Plaintiff’s remaining causes of action require dismissal, meaning that Plaintiff’s punitive damages cause of action must also be dismissed. Even if this were not the case, Plaintiff cannot state a cause of action for punitive damages against these Defendants in their official capacities because they are immune from such a claim under prevailing law.

V. CONCLUSION.

For all the reasons examined herein, Plaintiff’s Complaint fails to state a plausible claim upon which relief can be granted against these Defendants. Further, dismissal of Plaintiff’s claims should be *with prejudice*.

Respectfully submitted,

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CERTIFICATE OF SERVICE

This will certify that a true and correct copy of the foregoing has been filed with the Clerk of the Court using the CM/ECF system on this 1st day of June, 2026, and electronic notice of the same will be sent to the following Counsel of record:

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ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

This matter having come before the Court upon the Motion to Dismiss pursuant to Fed.R.Civ.P. 12(b)(6) filed by Defendants, Chief Billy Bolin, Lieutenant Kyle Stone, Officer Treg Duvall, Officer Elam Coots, and Officer Noah Howell, the Court having considered the Motion, and otherwise being sufficiently advised;

IT IS HEREBY ORDERED that Defendants' Motion is **GRANTED**. Plaintiff's Complaint fails to state a plausible claim upon which relief can be granted against these Defendants. Under applicable law, any amendment to Plaintiff's Complaint concerning the claims raised against these Defendants would be futile. Accordingly, Plaintiff's claims against Chief Billy Bolin, Lieutenant Kyle Stone, Officer Treg Duvall, Officer Elam Coots, and Officer Noah Howell are hereby **DISMISSED WITH PREJUDICE**.

SO ORDERED.