

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO

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

**DEFENDANT SHERIFF CHIP STAUFFER'S
MOTION TO DISMISS**

Comes now Defendant Sheriff Chip Stauffer, in his official capacity, by and through undersigned counsel, and respectfully submits his Motion to Dismiss the claims asserted against him in Plaintiff's Complaint, with prejudice, pursuant to Fed. R. Civ. P. 12(b)(6). A Memorandum of Law in Support and Proposed Order are simultaneously tendered herewith.

Respectfully submitted:

/s/ L. Scott Miller

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COUNSEL FOR SHERIFF CHIP STAUFFER

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2026, the foregoing document with the CM/ECF filing system and that a true and correct copy was served electronically on all counsel of record.

/s/ L. Scott Miller

COUNSEL FOR SHERIFF CHIP STAUFFER

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**DEFENDANT SHERIFF CHIP STAUFFER’S
MEMORANDUM IN SUPPORT OF HIS MOTION TO DISMISS**

Comes now Defendant, Henderson County Sheriff Chip Stauffer (herein referred to as “Sheriff Stauffer”), in his official capacity, by and through the undersigned counsel and, pursuant to Fed. R. Civ. P. 12(b)(6), hereby states as follows for his Memorandum of Law in Support of his Motion to Dismiss:

INTRODUCTION

In the Complaint, Plaintiff asserts various constitutional state law claims against Sheriff Stauffer. As detailed below, several of these claims should be dismissed for failure to state a claim and/or because the alleged conduct at issue is protected by immunity. The facts as pled within the Complaint make clear Henderson County Sheriff Deputy, Gary Jones, engaged in a discretionary act, *i.e.*, a decision to use deadly force, while a fleeing vehicle accelerated toward him. As a result, the claims brought against Sheriff Stauffer, in his official capacity, cannot withstand a Motion to Dismiss.

STATEMENT OF FACTS¹

On July 10, 2025, at approximately 15:30 hours, the Henderson Police Department initiated a traffic stop for a vehicle operating with an expired registration plate. [DE 1: Compl. ¶¶ 21-22.] Plaintiff, Timberlynn Floyd, was a passenger in the vehicle. When the vehicle did not immediately stop, multiple Henderson Police Department officers pursued the vehicle. [DE 1: Compl. ¶¶ 23-46.] During the pursuit, Lieutenant Kyle Stone of the Henderson Police Department requested that a Henderson County Sheriff's Deputy or Kentucky State Police Trooper assume pursuit of the vehicle. [DE 1: Compl. ¶ 47.] Deputy Gary Jones of the Henderson County Sheriff's Office took over the pursuit with authorization from Sergeant Joshua Hendrickson. [DE 1: Compl. ¶¶ 48-49.] During the pursuit, Deputy Jones' cruiser collided with the suspect vehicle while traveling through a roundabout. [DE 1: Compl. ¶ 57.]

After the collision in the roundabout, the suspect vehicle struck a curb. [DE 1: Compl. ¶ 57.] Deputy Jones exited his patrol vehicle and yelled for the vehicle to stop. ¶ [DE 1: Compl. ¶ 58.] At that critical moment, the Complaint alleges that the vehicle drove onto the median toward Deputy Jones before veering away after the shots were fired. [DE 1: Compl. ¶ 63.] Four gunshots were then fired from Deputy Jones's duty weapon. [DE 1: Compl. ¶ 59.] According to Lieutenant Stone's observations from his dashcam video as alleged in the Complaint, the first round appears to have been fired while the vehicle was still in front of Deputy Jones, and three consecutive rounds were discharged from the front passenger-side quarter panel as the vehicle continued past his position. [DE 1: Compl. ¶¶ 61-62.] Plaintiff, a passenger in the vehicle, sustained a gunshot wound to her leg. [DE 1: Compl. ¶¶ 65-66.]

¹ The factual background is taken from the allegations of the Complaint. In accordance with the controlling review standard, the allegations are assumed to be true only for the purposes of this motion. The right to deny the allegations is reserved in future litigation on this matter.

The Henderson County Sheriff's Office conducted an internal investigation and issued findings regarding Deputy Jones' conduct. [DE 1: Compl. ¶¶ 67-76.] The internal investigation found that Deputy Jones violated certain policies regarding emergency vehicle operation, unauthorized vehicle contact, and body-worn camera activation. [DE 1: Compl. ¶¶ 71-72.] However, the internal investigation expressly concluded that Deputy Jones shot at a vehicle that was trying to run him over, and video evidence reviewed by the Sheriff's Office shows the vehicle veered away after the shots were fired. [DE 1: Compl. ¶¶ 74-75.]

Plaintiff initiated this action on March 31, 2026, against multiple Defendants from the Henderson County Sheriff's Office and the Henderson Police Department, including Sheriff Stauffer. The only claims alleged against Sheriff Stauffer are: Count II's federal "*Monell* Failure to Train and Supervise" and Count III's state law vicarious liability claim for battery pursuant to KRS 70.040. Count IV's state law negligence claim does not expressly include Sheriff Stauffer or plead any facts that he was involved in the conduct comprising this claim. Nevertheless, to the extent Count IV could be construed as alleged against Sheriff Stauffer, the claim fails and must be dismissed, as do the claims in Counts II and III.

STANDARD OF REVIEW

Dismissal is proper pursuant to Fed. R. Civ. P. 12(b)(6) where the plaintiff "fails to state a claim upon which relief can be granted." A complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Rule 8 "does not require 'detailed factual allegations,' but it demands more than an unadorned, the-defendant unlawfully-harmed-me accusation." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007)). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on

its face.” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 570). A claim is factually plausible if the complaint contains factual allegations that “allow the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 678.

To meet this plausibility standard, the complaint must contain more than “threadbare recitals of the elements of a cause of action, supported by mere conclusory statements.” *Id.* A complaint whose “well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct” does not satisfy the pleading requirements of Rule 8 and will not withstand a motion to dismiss. *Id.* at 679. Generally, on a motion to dismiss, the “complaint is viewed in the light most favorable to [the plaintiff]; the allegations in the complaint are accepted as true, and all reasonable inferences are drawn in [the plaintiff’s] favor.” *Gavitt v. Born*, 835 F.3d 623, 640 (6th Cir. 2016).

ARGUMENT

I. Count II fails to plead municipal liability.

Count II, the first claim asserted against Sheriff Stauffer, fails because the Complaint does not allege an individual constitutional violation. Without an underlying constitutional violation on the part of the officers involved in the incident, any attempt to associate liability to Sheriff Stauffer in his official capacity fails. *Baker v. City of Trenton*, 936 F.3d 523, 535 (6th Cir. 2019). Furthermore, municipal liability under 42 U.S.C. Section 1983 cannot arise from *respondeat superior*. *Monell*, at 691. Rather, a municipality is liable only when a constitutional violation is committed pursuant to an official municipal policy or custom. *Monell*, at 694.

42 U.S.C. § 1983 imposes civil liability on those individuals who, acting under color of law, deprive a citizen of, among other things, his federally guaranteed constitutional rights. *Brosseau v. Haugen*, 543 U.S. 194, 197–98, (2004). To state a claim under § 1983, a plaintiff must

set forth facts that, when favorably construed, establish: (1) the deprivation of a right secured by the Constitution or laws of the United States; (2) caused by a person acting under the color of law. *Sigley v. City of Parma Heights*, 437 F.3d 527, 533 (6th Cir.2006) (citing *West v. Atkins*, 487 U.S. 42, 48 (1988)). Finally, with every Section 1983 claim, “it is necessary to isolate the precise constitutional violation” at issue. *Baker v. McCollan*, 443 U.S. 137, 140 (1979).

To the extent that the Plaintiff alleges excessive force as a constitutional violation, Deputy Jones is entitled to qualified immunity. Under controlling Fourth Amendment jurisprudence, an officer may use force, including deadly force, to protect himself or others from an imminent threat of death or serious bodily injury posed by a vehicle. *See Tennessee v. Garner*, 471 U.S. 1 (1985); *Brosseau v. Haugen*, 543 U.S. 194 (2004); *Cass v. City of Dayton*, 770 F.3d 368 (6th Cir. 2014). Here, the Complaint’s own factual allegations establish that Deputy Jones faced an objectively reasonable threat when the vehicle drove toward him. Because the Complaint does not allege a constitutional violation, Plaintiff’s *Monell* claim fails.

The Complaint does not allege facts suggesting that the officer’s perception of threat was unreasonable or that the force used was disproportionate to the threat posed. Instead, the Complaint focused on alleged procedural and administrative failures: the pursuit was unauthorized under policy, the officer lacked PIT training, body cameras were not activated, and supervision was inadequate. [DE 1: Compl. ¶¶ 51-55.] These allegations do not establish that any deputy violated the Fourth Amendment in using force against an imminent deadly vehicle threat. *Cass v. City of Dayton* involves a similar fact pattern to our case here. Officers were attempting to stop a fleeing vehicle, when an officer shot toward the vehicle’s driver but ultimately struck a passenger after the vehicle struck two officers. *Id.*, at 372-73. The Sixth Circuit in *Cass* recognized:

An officer is justified in using deadly force against “a driver who objectively appears ready to drive into an officer or bystander with his car.” *Hermiz v. City of*

Southfield, 484 F. App'x 12, 16 (6th Cir. 2012) (citing *Brosseau v. Haugen*, 543 U.S. 194, 197-200 (2004)). But, as a general matter, an officer may not use deadly force “once the car moves away, leaving the officer and bystanders in a position of safety.” *Id.*; see also, e.g., *Murray-Ruhl v. Passinault*, 246 F. App'x 338, 344-46 (6th Cir. 2011); *Estate of Kirby v. Duva*, 530 F.3d 475, 482-83 (6th Cir. 2008); *Sigley v. City of Parma Heights*, 437 F.3d 527, 535-36 (6th Cir. 2006; *Cupp*, 430 F.3d at 774-75. An officer may, however, continue to fire at a fleeing vehicle even when no one is in the vehicle’s direct path when “the officer’s prior interactions with the driver suggest that the driver will continue to endanger others with his car.” *Hermiz*, 484 F. App's at 16; see, e.g., *Scott v. Clay Cnty.*, 205 F. 3d 867, 877 (6th Cir. 2000); *Smith v. Freland*, 954 F.2d 343, 347 (6th Cir. 1992).

An officer does not violate the Fourth Amendment where, although ultimately wrong in his or her assessment of the circumstance, “a dangerous situation evolved quickly to a safe one before the police officer had a chance to realize the change.”

Cass, 770 F.3d at 375-76. Here, it is clear that the facts, as alleged within Plaintiff’s Complaint, cannot overcome Deputy Jones’s authorized use of force in the face of a deadly threat of a vehicle accelerating toward him. Absent a plausible allegation of a predicate constitutional violation, the *Monell* claim necessarily fails. The Complaint cannot transform administrative or policy violations into constitutional liability without alleging facts showing that a constitutional right was actually violated. As such, Count II must be dismissed against Sheriff Stauffer.

Even if the Court were to find the Complaint sufficiently pleads an individual constitutional violation, the *Monell* claim cannot survive a motion to dismiss. “Section 1983 does not permit plaintiffs to hold local governments automatically liable for the injuries that their agents cause; plaintiffs can hold those governments liable ‘only for “their own illegal acts.”’ *Gambrel v. Knox Cnty., Kentucky*, 25 F.4th 391, 408 (6th Cir. 2022) (quoting *Connick v. Thompson*, 563 U.S. 51, 60 (2011)). To establish municipal liability, Plaintiff must show that the deprivation of his rights occurred because of a government’s policy or custom. *Wiser v. Boyle Cty. Sheriff’s Dep’t*, Civil Action No. 5: 25-012-DCR, 2025 U.S. Dist. LEXIS 123393 (E.D. Ky. June 30, 2025). Plaintiff can

show this by alleging facts that demonstrate an official with final decision-making authority ratified illegal actions. *Id.* (internal citations omitted). The plaintiff must also demonstrate earlier instances of the same unconstitutional conduct being overlooked. *Id.* To ensure failure to train and supervise claims do not transform into vicarious-liability claims, which are prohibited under § 1983, a plaintiff must prove the “demanding elements” of deliberate indifference and causation. *Gambrel*, 25 F.4th at 408. Put differently, [t]o succeed 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. *Lopez v. Hart Cnty., Kentucky*, No. 116-CV-00056-GNS-HBB, 2018 WL 4689472, at *4 (W.D. Ky. Sept. 28, 2018) (quoting *Ellis v. Cleveland Mun. Sch. Dist.*, 455 F.3d 690, 700 (6th Cir. 2006)).

Here, none of Plaintiff’s allegations identify a specific policy, rule, custom or procedure maintained by Sheriff Stauffer that was the moving force behind the alleged constitutional violation. See *McCoy v. Carlson*, No. 3:17- CV-432, 2020 WL 419439, at *4 (S.D. Ohio Jan. 27, 2020), report and recommendation adopted, No. 3:17-CV-432, 2020 WL 635781 (S.D. Ohio Feb. 11, 2020) (“To demonstrate *Monell* liability, one must: (1) identify the policy or custom ...”). While the Complaint alleges Deputy Jones and Sergeant Hendrickson were disciplined for violation of Sheriff’s Office policies, this is not sufficient to demonstrate a constitutional violation or *Monell* liability. [DE 1: Compl. ¶¶ 70-73.] “The Supreme Court has been cautious to draw a distinction between behavior that violates a statutory or constitutional right and behavior that violates an administrative procedure of the agency for which the officials work.” *Cass v. City of Dayton*, 770 F.3d 368, 377 (6th Cir. 2014) (citing *Cooper v. Cnty. of Washtenaw*, 222 F. App’x 459, 468 (6th Cir. 2007)). The Complaint thus fails to allege that any municipal policy or custom

was the moving force behind the alleged constitutional harm. Accordingly, municipal liability under *Monell* fails.

A mere assertion that the agency had a custom or policy of failing to train or supervise its officers is insufficient to sustain Plaintiff's claim, let alone establish deliberate indifference and causation. See *Brown v. Cuyahoga Cnty.*, Ohio, 517 F. App'x 431, 436 (6th Cir. 2013) (affirming dismissal of a *Monell* claim based on "nothing more than a bare recitation of legal standards."); *City of Canton v. Harris*, 489 U.S. 378, 390, (1989) ("[T]he focus must be on adequacy of the training program in relation to the tasks the particular officers must perform."); *Sistrunk v. City of Hillview*, 545 F. Supp. 3d 493, 499-500 (W.D. Ky. 2021) (dismissing failure to train claim in part because alleging that the municipality failed to train officers on obtaining and executing search warrants was a legal conclusion); *Burgess*, 735 F.3d at 478–79 (finding a mere assertion "that Defendants had a policy of failing to train and supervise deputies" to be insufficient to establish an unconstitutional custom or policy). For the reasons below, the Complaint fails to establish the deliberate indifference and causation elements.

Deliberate Indifference

"Deliberate indifference is a stringent standard of fault, requiring proof that a municipal actor disregarded a known or obvious consequence of his action." *Connick*, 563 U.S. at 62 (citation and quotations omitted). To make this showing, a plaintiff must allege untrained employees engaged in "a pattern of similar constitutional violations," or single-incident liability. *Id.* at 63. Under single-incident liability, which only occurs in a "narrow range of circumstances," the need for training and supervision must have been sufficiently "obvious" that such failure to meet the need could be characterized as deliberate indifference to constitutional rights. *Id.*; see also *Gambrel*, 25 F.4th at 408; *Sistrunk*, 545 F. Supp.3d at 499.

Even assuming, *arguendo*, that a failure-to-train or failure-to-supervise theory could proceed, the Complaint lacks the factual specificity necessary to state a plausible claim. Plaintiff fails to show “‘a clear and persistent pattern’ of misconduct outside the incident underlying this cause of action.” *Griham v. City of Memphis, Tennessee*, No. 2:21-CV-02506-MSN, 2022 WL 989175, at *6 (W.D. Tenn. Mar. 31, 2022) (quoting *Nouri v. Cnty. of Oakland*, 615 F. App’x 291, 296 (6th Cir. 2015)) (emphasis added). There is no allegation that any supervisory Defendant was aware of any ongoing misconduct, tolerated or approved such a pattern, or disregarded it. *Id.*

At most, the Complaint alleges that Deputy Jones lacked logged PIT training and that this deficiency was relevant to his decision-making. [DE 1: Compl. ¶ 52.] However, the Complaint does not allege what specific training program the municipality failed to provide, what the content of adequate PIT training would have been, how the absence of logged training directly caused the officer's decision to use deadly force, or whether PIT training, if provided, would have prevented the shooting. The bare assertion that an officer lacked a particular certification does not establish that the municipality's training program was deliberately indifferent to constitutional rights. The Complaint must do more than identify a gap in an officer's credentials – it must allege facts showing that the municipality's training and policies were inadequate for the tasks performed, and that this inadequacy was deliberately indifferent and the cause of the alleged foreseeable constitutional harm.

Additionally, the Complaint contains no allegations of prior incidents involving similar failures to train or supervise, similar unauthorized pursuits, similar PIT maneuvers, or similar uses of deadly force. Without such a pattern, the Complaint cannot establish that the municipality knew of a problem requiring corrective training or supervision. Deliberate indifference typically requires a pattern of similar constitutional violations of which the policymaker was aware, demonstrating

that the need for training or supervision was obvious. The absence of any factual allegations regarding prior similar incidents is fatal to a failure-to-train claim premised on deliberate indifference.

At most, the Complaint alleges in conclusory fashion that Sergeant Hendrickson was deliberately indifferent to the Constitutional rights and safety of the public in his failure to train and supervise Deputy Jones. [DE 1: Compl. ¶ 84.] Such conclusory allegations are insufficient to survive a motion to dismiss because they are not entitled to a presumption of truth. *Iqbal*, at 679. However, alleging only one instance of unconstitutional conduct is insufficient to survive a motion to dismiss against a *Monell* claim. *Wiser v. Boyle Cty. Sheriff's Dep't*, Civil Action No. 5: 25-012-DCR, 2025 U.S. Dist. LEXIS 123393 (E.D. Ky. June 30, 2025). No facts are pleaded to support the alleged constitutional violation was so obvious or foreseeable that the supervisory Defendants willfully failed to prepare for it. See *Connick*, 563 U.S. at 63. Nor is there an allegation of a complete failure to train or supervise. The facts as alleged fail to support a claim that the any deputies training or supervision was so “recklessly or grossly negligent” as to render the alleged misconduct inevitable. *Woodcock v. City of Bowling Green, Kentucky*, 165 F. Supp.3d 563, 601 (W.D. Ky. 2016), rev'd in part on other grounds sub nom. *Woodcock v. City of Bowling Green*, 679 F. App'x 419 (6th Cir. 2017) (quoting *Hays v. Jefferson Cnty., Ky.*, 668 F.2d 869, 874 (6th Cir. 1982)); see also *Sistrunk*, 545 F. Supp.3d at 500. Additionally, there are no facts pled that show how Plaintiff's alleged constitutional violation was obviously or inevitable to occur or reoccur. *Karsner v. Hardin Cnty.*, No. 3:20-CV-125-RGJ, 2021 WL 886233, at *14–15 (W.D. Ky. Mar. 9, 2021).

Most critically, the Complaint fails to allege facts establishing that any failure to train or supervise was the moving force behind the alleged constitutional violation – Deputy Jones' actions

of firing his weapon at the vehicle. The Complaint conflates administrative violations for vehicle operations and body camera use with the constitutional decision to employ deadly force. These are distinct issues. Simply put, the Complaint establishes that the shooting occurred because the vehicle turned around and accelerated toward Deputy Jones, not because of any training deficiency regarding PIT maneuvers or body camera operation.

The Complaint does not allege that proper PIT training would have prevented Deputy Jones from perceiving an imminent threat, that proper supervision would have instructed the officer to refrain from using force in response to an imminent deadly threat, that body camera activation would have changed the officer's force decision, or that the pursuit authorization process would have altered the officer's response to the threat. Without such allegations, the Complaint fails to establish the causal nexus required by *Monell* to sustain a claim against Sheriff Stauffer in his official capacity.

Causation

The Complaint alleges violations of internal Henderson County Sheriff's Office policies: the pursuit was unauthorized for expired registration, lights and sirens were turned off, Deputy Jones lacked logged PIT training, and body camera footage was minimal. [DE 1: Compl. ¶¶ 50-56, 67-73.] However, violations of internal policy, standing alone, do not establish constitutional violations or municipal deliberate indifference. Plaintiff must have alleged Defendants' "shortcomings were 'closely related to or actually caused the [plaintiff's] injury.'" *Sistrunk*, 545 F.Supp.3d at 501 (quoting *Jackson v. City of Cleveland*, 925 F.3d 793, 834 (6th Cir. 2019)). This element requires (1) "proof that proper training would have prevented" the alleged misconduct and (2) proximate causation—that is, a showing the supervisory Defendants could reasonably foresee that the officers' alleged misconduct would ostensibly follow from inadequate training or

supervision. *Gambrel*, 25 F.4th at 409. Plaintiff merely asserts conclusory statements, which are insufficient to plead causation. *See Brown*, 517 F. App'x at 436 (affirming dismissal of a *Monell* claim based on “nothing more than a bare recitation of legal standards.”); *Sistrunk*, 545 F. Supp.3d at 501 (“A ‘[p]laintiff may not simply include a *Monell* claim in his Complaint as a matter of course by making ... conclusory allegations ... Rather, plaintiff must allege some actual facts suggesting as much.”) (citation omitted). Accordingly, the allegations in Count II are insufficient to state a claim and should be dismissed with prejudice.

Even considering the policy violations, the Complaint does not plausibly connect the pursuit policy violation to the use-of-deadly-force decision. The shooting occurred because the vehicle turned around and accelerated toward Deputy Jones, not because the pursuit was unauthorized or because Deputy Jones lacked PIT certification. While the Henderson County Sheriff's Office internal investigation found that Deputy Jones violated policies regarding emergency vehicle operation, unauthorized vehicle contact, and body-worn camera activation, it expressly concluded that Deputy Jones' discharge of his firearm was justified. [DE 1: Compl. ¶¶ 71-76.] Such discipline will not give rise to *Monell* liability. The Complaint's reliance on internal policy violations as a proxy for constitutional liability conflates administrative accountability with constitutional accountability. This conflation is insufficient to survive a motion to dismiss.

Accordingly, Count II should be dismissed as to Sheriff Stauffer in his official capacity because the Complaint fails to plausibly allege an official policy or custom, deliberate indifference, causation, or a predicate constitutional violation.

II. Count III fails to properly state a battery claim against Sheriff Stauffer in his official capacity.

A battery is an intentional act that causes a harmful or offensive contact with another person's consent irrespective of whether an actual injury results. *Vitale v. Henchey*, 24 S.W.3d 651,

659 (Ky. 2000). However, the use of force by law enforcement officers is not unlawful, and thus not a battery, when the degree of force used is reasonable under the circumstances. *Woosley v. City of Paris*, 591 F. Supp. 2d 913, 923 (E.D. Ky. 2008). Objective reasonableness under the federal Fourth Amendment standard equally operates to defeat Plaintiff's common law tort of battery. *Id.*

The Complaint attempts to assert a claim for vicarious liability under Count III against Sheriff Stauffer; however, a claim of vicarious liability is not possible without primary liability. *Haugh v. City of Louisville*, 242 S.W.3d 683, 687 (Ky. App. 2007); KRS 70.040. Ultimately, the Complaint's failure to adequately plead an underlying battery is fatal to the vicarious liability claim against Sheriff Stauffer in his official capacity. As demonstrated above, Plaintiff has not stated a claim against any Henderson County Sheriff's Office Deputy; therefore, a claim of vicarious liability against Sheriff Stauffer in his official capacity cannot stand.

III. Count IV fails to state a negligence or gross negligence claim against Sheriff Stauffer in his official capacity.

The Complaint fails to assert facts that would support a claim for negligence or gross negligence. Rather, the crux of the Complaint is plainly excessive force and battery resulting in a gunshot wound. [DE 1: Compl. at *supra*.] These are intentional torts. Plaintiff only alleges intentional and purposeful conduct by Defendants, as opposed to unintentional or accidental conduct. Accordingly, Plaintiff's negligence and gross negligence claims must fail. *Caldwell v. Luster*, No. 5:24-cv-121-KKC, 2025 U.S. Dist. LEXIS 15457 (E.D. Ky. Jan. 29, 2025). When an officer is alleged to have used excessive force, he can be liable for the intentional tort of battery, but not negligence. *Cornelius v. City of Mount Wash.*, No. 3:18-CV-00341-GNS-CHL, 2021 U.S. Dist. LEXIS 135840 at *21 (W.D. Ky. July 21, 2021). Plaintiff here simultaneously alleges excessive force, battery, negligence, and gross negligence, for the same set of facts, that caused Plaintiff's gunshot wound. [DE 1: Compl. ¶ 92.] Plaintiff's negligence and gross negligence claims

cannot survive. *Ali v. City of Louisville*, 3:03CV-427-R, 2006 WL 2663018 (W.D. Ky. Sept. 15, 2006):

There is no such thing as a negligent battery. See REST. (SECOND) TORTS § 13. Where the officer may have mistakenly believed that he needed to use the amount of force that he did, that does not change the fact that initial action was intentional or alter the objective analysis of whether the force he ultimately used was excessive. Thus, where an unwanted touching (a battery), which is inherent in any arrest, escalates beyond that which is reasonably necessary into excessive force, the cause of action is solely for battery, with the officer's privileged use of force ending when the excessive force began. To permit a separate claim for negligence creates the risk that a jury would assume that, even if no excessive force were used, the officer might somehow still be liable for some undefined negligence. Such a result is doctrinally unsupportable and unacceptable, because each time an officer uses force, he commits an intentional act of battery for which he is liable, unless he is clothed by a privilege permitting him to use a reasonable amount of force.

Id. See also Kirilova v. Braun, No. 21-5649, 2022 U.S. App. LEXIS 2649 at *20 (6th Cir. Jan. 27, 2022) (unpublished, citing *Ali*) (An officer's use of force constitutes an intentional act of battery and is only cognizable as a battery claim); *Durmov v. University of Kentucky*, CIV. 5:12- 258, 2013 WL 488976 at *2 (E.D. Ky. Feb. 7, 2013); *Casey v. Sanders*, 7:17-CV-145-KKC, 2018 WL 3078758 at *8 (E.D. Ky. June 21, 2018). Negligence claims premised on an officers alleged excessive use of force cannot be allowed to proceed. *Harrison v. Ellison*, Civil Action No. 3:21-cv-174-RGJ, 2023 U.S. Dist. LEXIS 107975 at *59 (W.D. Ky. June 22, 2023). Because Plaintiff's allegations are that Defendant Jones used excessive force and battered the Plaintiff, the Complaint's negligence and gross negligence claims must fail, as a matter of law, to the extent that they are alleged against Sheriff Stauffer in his official capacity.

Additionally, Count IV of the Complaint does not allege specific facts pertaining to Sheriff Stauffer; rather, Count IV generally groups "Defendants" together without reference to what actions of an individual Defendant constitutes negligence or gross negligence. Even if this Honorable Court were to determine that the Complaint alleges individual sheriff's deputies

engaged in conduct that is allegedly negligent or grossly negligent, *i.e.*, initiating and continuing pursuit of the vehicle occupied by the Plaintiff and then using force, these allegations are not facts that Sheriff Stauffer is alleged to have participated. To the extent Count IV is construed to be alleged against Sheriff Stauffer, it fails for lack of factual support as to how Sheriff Stauffer committed any negligence.

Furthermore, Sheriff Stauffer is protected by sovereign immunity from a negligence claim alleged against his official capacity. “[A] sheriff is a county official and absent a waiver thereof is cloaked with sovereign immunity when sued in his official capacity.” *Wheeler v. Ward*, No. 3:19-CV-00059-GNS-CHL, 2020 U.S. Dist. LEXIS 50809, at *15 (W.D. Ky. Mar. 23, 2020) (citing *Harlan Cty. v. Browning*, No. 2012-CA-000148-MR, 2013 Ky. App. Unpub. LEXIS 184, 2013 WL 657880, at *2 (Ky. App. Feb. 22, 2013) (citation omitted)). Sheriff Stauffer is entitled to sovereign immunity for his own alleged intentional or unintentional wrongful acts. *Harlan Cty.*, 2013 WL 657880, at *11. KRS 70.040 does not operate as a waiver of sovereign immunity for the acts of the sheriff. *Id.* at *6-7. Accordingly, to the extent Count IV can be construed as alleged against Sheriff Stauffer, it is barred by sovereign immunity.

IV. Punitive damages are not recoverable against Sheriff Stauffer in his official capacity.

“The Supreme Court has explicitly held that punitive damages are not available in suits against municipalities under § 1983.” *Dempsey v. City of Lawrenceburg*, Civil Action No. 3:09-33-DCR, 2010 U.S. Dist. LEXIS 100904, at *26 (E.D. Ky. Sep. 23, 2010) (citing *Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 271 (1981)). “§ 1983 does not authorize punitive damages.” *Id.* Additionally, punitive damages are not a cognizable cause of action. See *Johnson v. BLC Lexington SNF, LLC*, 5:19-CV-064-DCR, 2019 WL 2476739, at *11 (E.D. Ky. June 13, 2019) (dismissing separate claim for punitive damages because “punitive damages area remedy, not a separate claim

for relief.”); 859 *Boutique Fitness LCC v. Cylcebar Franchising, LLC*, No. 5:16-CV-018-KKC, 2016 WL 2599112, at *3 (E.D. Ky. May 5, 2016), *aff’d*, 699 F. App’x 457 (6th Cir. 2017) (“[T]o the extent [Plaintiff] asserts punitive damages as a separate cause of action, the claim must be dismissed). Therefore, to the extent Count V seeks punitive damages from Sheriff Stauffer in his official capacity, that claim must be dismissed.

CONCLUSION

For the foregoing reasons, Defendant Sheriff Chip Stauffer, in his official capacity, respectfully requests this Honorable Court to grant his Motion to Dismiss and enter an Order dismissing all claims against him in his official capacity, with prejudice.

Respectfully submitted:

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COUNSEL FOR SHERIFF CHIP STAUFFER

CERTIFICATE OF SERVICE

I hereby certify that on June 1, 2026, the foregoing document with the CM/ECF filing system and that a true and correct copy was served electronically on all counsel of record.

/s/ L. Scott Miller

COUNSEL FOR SHERIFF CHIP STAUFFER

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO

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

**ORDER GRANTING
DEFENDANT SHERIFF CHIP STAUFFER’S
MOTION TO DISMISS**

This matter having come before the Court on Sheriff Chip Stauffer’s Motion to Dismiss, the Court having reviewed the parties’ arguments, and otherwise being sufficiently advised, it is hereby ORDERED as follows:

1. Defendant Chip Stauffer’s Motion is GRANTED, and he is granted judgment on this case.
2. All claims asserted against Defendant Chip Stauffer, in his official capacity, is dismissed with prejudice.
3. This is a final and appealable order, there being no just cause for delay.

SO ORDERED this ____ day of _____ 2026.

HON. GREG N. STIVERS
U.S. DISTRICT COURT JUDGE

Tendered by:

/s/ L. Scott Miller

L. Scott Miller, KBA No. 91232

J. Tyler Chelf, KBA No. 99988

Brittany O'Neil, 97984

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COUNSEL FOR SHERIFF CHIP STAUFFER

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I hereby certify that on _____, the foregoing document with the
CM/ECF filing system and that a true and correct copy was served electronically on all counsel of
record.

Clerk