

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WILLIAM ALVAREZ,

Plaintiff,

**ANSWER TO AMENDED
COMPLAINT**

-against-

Jury Trial Demanded

C.O. CALEB BAUSE, C.O. SKYLER TUTTLE, C.O.
ANTHONY FARINA, C.O. MICHAEL BABICZ, and
SGT. GLENN TROMBLEY,

22-CV-0186

LEK/DJS

Defendants.

Defendants Caleb Bause, Michael Babicz, Skyler Tuttle, Anthony Farina, and Glenn J. Trombly, by their attorney, Letitia James, Attorney General of the State of New York, Matthew J. Gallagher, Assistant Attorney General, of counsel, answer the Amended Complaint, Dkt. No. 12 (“Complaint”) as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 1, 2, 23, 24, 25, 36, 40, 41, 42, 43, and 51 of the Complaint.
2. Admit the allegations contained in paragraphs 3, 4, 5, 7, 8, 10, 11, 13, 14, 16, and 17 of the Complaint.
3. Paragraphs 6, 9, 12, 15, and 18 of the Complaint assert legal conclusions to which no response is required.
4. Paragraph 19 of the Complaint is a statement of jurisdiction to which no response is required.
5. Paragraph 20 of the Complaint is a statement of venue to which no response is required.

6. Repeat and reallege responses to paragraphs 1-20, 1-61, 1-64 and 1-67, and 69-70 in response to paragraphs 21, 62, 65, and 68 of the Complaint, respectively.

7. Deny the allegations contained in paragraphs 22, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 39, 44, 45, 46, 47, 48, 49, 50, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 63, 64, 66, 67, 69, and 70 of the Complaint.

8. The “WHEREFORE” paragraph of the Complaint merely sets forth the relief requested and thus does not require a response. To the extent that a response is required, deny that Plaintiff is entitled to any of the relief requested.

9. Deny any allegation of the Complaint not specifically responded to above.

10. Defendants Caleb Bause, Michael Babicz, Skyler Tuttle, Anthony Farina, and Glenn J. Trombly hereby demand a trial by jury.

Defenses

11. The Complaint fails to state a claim upon which relief can be granted.

12. At all relevant times Defendants Caleb Bause, Michael Babicz, Skyler Tuttle, Anthony Farina, and Glenn J. Trombly acted under the reasonable belief that their conduct was in accordance with clearly established law. They are, therefore, protected under the doctrine of qualified immunity.

13. To the extent applicable, the Complaint is barred, at least in part, under principles of res judicata and collateral estoppel.

14. The Complaint is barred, in whole or in part, under the Eleventh Amendment.

15. Defendants Caleb Bause, Michael Babicz, Skyler Tuttle, Anthony Farina, and/or Glenn J. Trombly were not personally involved in the alleged constitutional or statutory violations, and they are therefore not liable under 42 U.S.C. § 1983.

16. To the extent applicable, Plaintiff failed to exhaust administrative remedies.

17. To the extent this action is brought for mental or emotional injury, plaintiff is barred from proceeding without a prior showing of physical injury.

18. To the extent Plaintiff has, on three or more occasions, brought an action or appeal that was dismissed on the grounds that it was frivolous, malicious, or failed to state a claim upon which relief may be granted, he is barred from proceeding under section 1915.

19. Upon information and belief, Plaintiff has been convicted of one or more felonies or other crimes for which there are or may be restitution orders pending. Pursuant to section 807 of the Prison Litigation Reform Act of 1995, any compensatory damages to be awarded Plaintiff herein shall be paid directly to satisfy any such outstanding orders until paid in full. Therefore, Plaintiff is or may not be entitled to any payment herein.

20. Upon information and belief, Plaintiff has been convicted of one or more felonies or other crimes. Pursuant to section 808 of the Prison Reform Act of 1995, prior to payment of any compensatory damages to Plaintiff, reasonable efforts shall be made to notify the victims of the crime for which Plaintiff was convicted and incarcerated. Upon information and belief, Plaintiff must be compelled to cooperate in the notification of his victims prior to payment of any judgment herein, or he should be barred from recovery.

WHEREFORE, Defendants Caleb Bause, Michael Babicz, Skyler Tuttle, Anthony Farina, and Glenn J. Trombly respectfully ask that this Court deny the relief requested, dismiss the Complaint, and grant such other relief as the Court shall deem is just and equitable.

Dated: Albany, New York
February 15, 2023

LETITIA JAMES
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Glenn J. Trombly*
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