

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

RUSSELL K. OGDEN, BEATRICE HAMMER, and
JOHN SMITH, on behalf of themselves and a class of
persons similarly situated,

Plaintiffs,

vs.

Case No. 2:16-cv-02268-JAR-KGG

PETE FIGGINS, in his official capacity as
Sheriff for Wilson County, Kansas,

Defendant.

ANSWER

Defendant Pete Figgins answer plaintiffs' complaint as follows:

1. All allegations of plaintiffs' complaint not specifically admitted herein are denied.
2. Paragraphs 1, 2, and 3 are denied.
3. In response to ¶ 4, defendant admits that plaintiffs seek the relief stated but denies that plaintiffs have any viable or legitimate claim(s).
4. In response to ¶¶ 5, 6, and 7, defendant admits that jurisdiction and venue are proper, but denies that plaintiffs have any viable or legitimate claim(s).
5. Defendant has insufficient knowledge to form a belief as to the truth of the allegations in ¶¶ 8, 9, and 10 and for that reason denies the same.
6. In response to ¶ 11, defendant admits that at all time pertinent defendant Pete Figgins was elected Sheriff of Wilson County. The remainder of ¶ 11 is denied.

7. Paragraphs 12 and 13 are legal conclusions that require no response from this defendant, but are nonetheless denied.
8. Paragraph 14 is admitted.
9. Paragraphs 15, 16, and 17 are denied
10. Defendant has insufficient information to form a belief as to the truth of the allegations in ¶ 18 and its subparts pertaining to plaintiff Ogden's subjective desires and beliefs. The remainder of ¶ 18 is denied.
11. Defendant has insufficient knowledge to form a belief as to the truth of the allegations in ¶ 19 and its subparts pertaining to plaintiff Hammer's subjective desires and beliefs. The remainder of ¶ 19 is denied.
12. Defendant has insufficient knowledge to form a belief as to the truth of the allegations in ¶ 20 and its subparts pertaining to plaintiff Smith's subjective desires and beliefs. The remainder of ¶ 20 is denied.
13. Paragraph 21 and 22 are denied. The policy in question was implemented prior to defendant taking office. The Answering defendant has insufficient knowledge to form a belief as to the truth of the remaining allegations and therefore denies the same.
14. In response to ¶ 23, defendant admits that non-compliant mail is stored with the inmate's property in the property room. The remainder of ¶ 23 is denied.
15. In response to ¶ 24 is admitted.
16. Paragraphs 25 and its subparts are denied.
17. Paragraphs 26, 27, 28, 29, and 30 are denied.

CLASS ACTION ALLEGATIONS

18. In response to ¶ 31, defendant admits that plaintiffs bring this action pursuant to Fed. R. Civ. P. 23, but denies that plaintiffs have any viable or legitimate claims.
19. In response to ¶ 32, defendant admits that plaintiffs seek to represent the described class, but denies that plaintiffs have any viable or legitimate claim(s) and denies that class certification is necessary or appropriate.
20. Paragraph 33 is denied.
21. Paragraph 34 and its subparts are denied.
22. Paragraphs 35, 36, and 37 are denied.

COUNT I

23. In response to ¶ 38, defendant incorporate its answer(s) to the preceding paragraphs.
24. Paragraphs 39, 40, 41, 42, and 43 are denied.

COUNT II

25. In response to ¶ 44, defendant incorporate its answer(s) to the preceding paragraphs.
26. Paragraph 45 is a legal conclusion that require no response from this defendant, but is nonetheless denied.
27. Defendant has insufficient knowledge to form a belief as to the truth of the allegations in ¶ 46 pertaining to the status of any letter sent to or from the plaintiffs and for that reason denies those allegations. The remainder of ¶ 46 is denied.
28. Defendant has insufficient knowledge to form a belief as to the truth of the allegations in ¶ 47 pertaining to the status of any letter sent to or from the plaintiffs and for that reason denies those allegations. The remainder of ¶ 47 is denied.
29. Paragraphs 48, 49, 50, 51, and 52 are denied.

30. Plaintiffs' prayer for relief, including all its subparts, is denied.

ADDITIONAL DEFENSES

31. Plaintiffs' complaint fails to state a claim upon which relief can be granted.

32. Plaintiffs have been provided with adequate due process.

33. Plaintiffs' claims are barred, in whole or in part, to the extent asserted outside any applicable limitations period(s).

34. Defendant alleges that any and all actions or acts committed by him or on his behalf were discretionary in nature and taken in good faith, and that Defendant is protected from liability by the doctrines of qualified immunity, official immunity, absolute immunity and/or judicial immunity.

35. Defendant reserves the right to assert any and all additional affirmative defenses that may be revealed through the course of discovery.

DEMAND FOR JURY TRIAL

Answering Defendant demands a trial by jury on all issues and claims.

Respectfully submitted,

FISHER, PATTERSON, SAYLER & SMITH, LLP
3550 S.W. 5th Street
Topeka, Kansas 66606
Office: (785) 232-7761 | Fax: (785) 232-6604
E-Mail: tmock@fisherpatterson.com
aholder@fisherpatterson.com

s/Andrew D. Holder

Terelle A. Mock	#21465
Andrew D. Holder	#25456
ATTORNEYS FOR DEFENDANT	

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing on the 17th day of June, 2016, with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following:

Stephen Douglas Bonney
ACLU Foundation of Kansas
6701 W. 64th Street, Ste. 210
Overland Park, KS 66202
dbonney@aclukansas.org

and

Joshua A. Glickman, Esq.
Social Justice Law Collective, PL
6709 W. 119th Street, #198
Overland Park, KS 66209
josh@sjlawcollective.com
ATTORNEYS FOR PLAINTIFF

I further certify that I caused the foregoing document and notice of electronic filing to be mailed by first-class mail to the following non-CM/ECF participant: No one.

s/Andrew D. Holder

Andrew D. Holder