UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRUCE WASHINGTON,	*	**CIVIL ACTION NO. 2:24-cv-00145**
Plaintiff,	*	
	*	
VERSUS	*	**JUDGE BRANDON S. LONG**
	*	
RANDY SMITH, CHANCE CLOUD, CURTIS	*	
FINN, TAYLOR LEWIS, DOUGLAS SEARLE,	*	
JEFFREY BOEHM, GEORGE COX,	*	**MAG. JUDGE**
RICHARD PALMISANO, DALE GALLOWAY,	*	**MICHAEL NORTH**
FRANK FRANCOIS, JR., JUSTIN PARKER,	*	
JEREMY CHURCH, DENISE MANCUSO	*	
JEANINE BUCKNER, MICHAEL SEVANTE,	*	
JOHN DOE CUSTODIAN(S), AND	*	**JURY DEMAND**
ONEBEACON INSURANCE GROUP	*	
	*	
Defendants,	*	

DEFENDANTS' MOTION TO DISMISS

NOW INTO COURT, through undersigned counsel, come Defendants, Sheriff Randy Smith, Chief Deputy Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Jr., Chance Cloud, Taylor Lewis, Curtis Finn, Douglas Searle, Justin Parker, Chief Denise Mancuso, Jeanine Buckner, Michael Sevante, Jeremy Church, and Michael Ripoll, Jr., who respectfully move this Honorable Court to dismiss with prejudice all claims made by Plaintiff pursuant to Fed. R. Civ. Procedure 12(b)(6) for the reasons discussed more fully in the corresponding Memorandum in Support.

WHEREFORE, Defendants pray that for the reasons set forth in his Memorandum in Support filed herewith, that the Motion be granted and that Plaintiff's claims in this matter be dismissed with prejudice.

Respectfully submitted,

MILLING BENSON WOODWARD L.L.P.

s/ Andrew R. Capitelli
Andrew R. Capitelli (#31649)
Kenneth Whittle (#38640)
Nicholas P. Isolani (#40831)
Paige S. Stein (#40954)
68031 Capital Trace Row
Mandeville, LA 70471
Telephone: (985) 292-2000
Fax: (985) 292-2001
acapitelli@millinglaw.com
kwhittle@millinglaw.com
nisolani@millinglaw.com
pstein@millinglaw.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana on October 4, 2024, by using the CM/ECF system, which system will send a notice of electronic filing to appearing parties in accordance with the procedures established. Any unrepresented parties appearing are being sent a copy of the above and foregoing through the U.S. Mail, postage prepaid and properly addressed, on October 4, 2024.

s/ Andrew R. Capitelli
Andrew R. Capitelli

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRUCE WASHINGTON,	*	**CIVIL ACTION NO. 2:24-cv-00145**
Plaintiff,	*	
	*	
VERSUS	*	**JUDGE BRANDON S. LONG**
	*	
RANDY SMITH, CHANCE CLOUD, CURTIS FINN, TAYLOR LEWIS, DOUGLAS SEARLE, JEFFREY BOEHM, GEORGE COX, RICHARD PALMISANO, DALE GALLOWAY, FRANK FRANCOIS, JR., JUSTIN PARKER, JEREMY CHURCH, DENISE MANCUSO JEANINE BUCKNER, MICHAEL SEVANTE, JOHN DOE CUSTODIAN(S), AND ONEBEACON INSURANCE GROUP	*	**MAG. JUDGE MICHAEL NORTH**
	*	**JURY DEMAND**
Defendants,	*	

MEMORANDUM IN SUPPORT OF DEFENDANTS' MOTION TO DISMISS

MAY IT PLEASE THE COURT:

NOW COME, through undersigned counsel, Defendants, Sheriff Randy Smith, in both his individual and official capacity as Sheriff of St. Tammany Parish, Louisiana, Chief Deputy Jeffrey Boehm, in both his individual and official capacities, George Cox, in his official capacity, Dale Galloway, in both his individual and official capacities, Frank Francois, Jr., in both his individual and official capacities, Chance Cloud, in his individual capacity, Taylor Lewis, in his individual capacity, Finn, in his individual capacity, Douglas Searle, in his individual capacity, Justin Parker, in both his individual and official capacities, Chief Denise Mancuso, in both her individual and official capacities, Jeanine Buckner, in both her individual and official capacities, Michael Sevante, in both his individual and official capacities, Jeremy Church, in his official capacity, and

Michael Ripoll, Jr. , in both his individual and official capacities, (collectively "Defendants") who respectfully submit this memorandum in support of their Rule 12(b)(6) motion to dismiss.

I. INTRODUCTION

Plaintiff has filed a 126-page, 632 paragraph Second Amended Complaint (the "Complaint") with twenty-seven (27) exhibits, asserting twenty-two (22) causes of action against seventeen (17) Defendants (including John Doe Custodians), which seeks injunctive relief, declaratory relief, compensatory damages, punitive damages, attorney's fees and costs, and pre- and post-judgment interest.[1] One would presume that any plaintiff who has pled such an overwhelming number of causes of action, spread across hundreds of paragraphs and asserted against numerous defendants, must have certainly been the victim of egregious conduct.

However, this Court will be surprised to learn that no such egregious or evil conduct ever occurred. To the contrary, Plaintiff's multi-party, multi-claim Complaint is based on two (2) routine traffic stops resulting from perceived traffic violations and involving only four (4) deputies. These traffic stops occurred with no threat of force or violence, no raised voices, no firearms drawn, and no handcuffs used, with each ultimately resulting in a verbal warning instead of a traffic citation. Indeed, recordings from body worn cameras clearly show that the overall atmosphere of the January 13, 2023, traffic stop was courteous and the deputies who conducted the traffic stop noted that it was the most casual of the approximately fifteen stops that night. They further remarked on the friendly small talk with Mr. Washington, including a conversation about a mutual friend who works at the STPSO, and even noted that the stop ended with a fist bump. The October 8, 2023 traffic stop was brief and polite.

Despite both traffic stops being uneventful, Plaintiff is attempting to create a constitutional

[1] See R. Doc. 96.

crisis by presenting an excessive number of facts and conclusory assertions to support an unwarranted number of claims.

II. FACTUAL BACKGROUND

This lawsuit arises out of two (2) separate traffic stops taking place on January 13, 2023 and October 8, 2023. Since Mr. Washington contends that a connection exists between the two recent traffic stops and his prior stop on March 13, 2021, Defendants briefly outline the basic facts and procedural history related to that stop.

i. The March 12, 2021 traffic stop

On March 10, 2022, Plaintiffs, Bruce Washington and Gregory Lane, filed suit against Sheriff Randy Smith, Deputy Jackson Bridel, Deputy Alexander Thomas, Deputy Shaun Wood, and Doe Defendants, stemming from a March 13, 2021, traffic stop. ("*Washington I*"). Plaintiffs later filed two Amended Complaints, asserting a number of theories of recovery for damages allegedly stemming from the traffic stop, including: (1) Unlawful Extension of Detention in Violation of the Fourth Amendment; (2) Unlawful Seizure in Violation of the Fourth Amendment and Article I, Section 5 of the Louisiana Constitution; (3) Retaliation in Violation of the Free Speech Clause of the First Amendment; (4) Unlawful Search under the Fourth Amendment; (5) Violations of the Petitions Clause of the First Amendment of the U.S. Constitution; (6) *Monell* Liability for the Violations of the First and Fourth Amendments; and (7) Violations of Title VI of the Civil Rights Act of 1964.

On November 8, 2022, pursuant to the defendants' motion to dismiss, the district court dismissed, with prejudice, all claims of Plaintiff, Gregory Lane, as well as all claims of Plaintiff, Bruce Washington, with the exception of Plaintiff Washington's single claim for unlawful search

against Deputy Thomas and the claims against the unknown "Doe" Defendants.[2]

On November 29, 2022, Deputy Thomas filed his Motion for Summary Judgment seeking dismissal of the claim of an alleged unlawful search. On December 22, 2022, the district court denied this Motion because of an issue of material fact as to whether or not Mr. Washington's actions indicated that he was consenting to Deputy Thomas' request to perform an officer safety pat-down, or whether Mr. Washington's actions indicated "mere acquiescence."[3] The trial in the *Washington I* matter is set for May 12, 2025.

ii. The January 13, 2023 traffic stop

As the Complaint notes, the entirety of this traffic stop is able to be viewed via the body camera footage of Sergeant Finn, Deputy Lewis, and Deputy Cloud, which is admittedly in Plaintiff's possession, and which Plaintiff has admitted that his Complaint is based on.[4] Accordingly, in the interest of transparency and in helping the Court further resolve this matter, Defendants attach the body camera footage of the January 13, 2023 traffic stop.[5]

As noted above, the January traffic stop occurred in the evening, on Highway 21, south of Sun, Louisiana.[1] On that date, Defendants, Sergeant Finn, Deputy Lewis, and Deputy Cloud, each assigned to the St. Tammany Parish Sheriff's office ("STPSO") Narcotics Division, were on patrol in an unmarked vehicle.[6] As members of the Narcotics Division, their primary duties were to proactively enforce Louisiana's laws by patrolling high crime areas and the conveyance routes to

[2] See *Washington v. Smith*, 639 F. Supp. 3d 625 (E.D. La. 2022); Defendants note that this Court would later dismiss Plaintiff's claims against all "Doe" Defendants.
[3] See *Washington v. Smith*, 2022 WL 17844622 (E.D. La. 2022).
[4] See R. Doc. 96, pg. 17, footnote no. 19, providing "Unless otherwise specified, all references to timing of events or quotations of conversations between Defendants Cloud, Lewis and Finn, and Mr. Washington are based on the body-worn camera footage obtained from the STPSO via a Public Records Request."
[5] See body camera footage of Chance Cloud, attached herein as Exhibit "1"; See body camera footage of Taylor Lewis, attached herein as Exhibit "2"; See body camera footage of Curtis Finn, attached herein as Exhibit "3".
[6] See R. Doc. 96-3, p. 10.

and from them.[7]

At approximately 7:16 pm, while patrolling such a high crime area in the south of Sun, they observed a vehicle, which was later determined to be driven by Plaintiff Bruce Washington, cross the center dash line that separates the two lanes, straddle the same for a short distance, and then complete the lane change. Plaintiff did all those maneuvers without using his turn signal (blinker).[8] After observing apparent traffic violations, Deputies Cloud and Lewis initiated a traffic stop by turning on the emergency lights of their unmarked vehicle.[9] Plaintiff, observing these lights, complied and pulled over.[10]

Deputy Cloud then exited his vehicle, approached the driver's side door of Mr. Washington's vehicle, identified himself, and informed Plaintiff why he was being stopped.[11] Deputy Cloud then asked Mr. Washington for his I.D., registration, and inquired into whether or not he had any weapons in the vehicle.[12]

While Mr. Washington was retrieving his paperwork from the glovebox, Deputy Lewis observed the interior of his car for weapons and contraband and noticed gleanings of green vegetable matter on a box in the rear seat.[13] He signaled to Deputy Cloud to get Mr. Washington out of the vehicle by saying, "You can get him out?"[14] When Mr. Washinton was exiting the car, Deputy Lewis indicated that his initial concern was unfounded.[15] Deputy Cloud asked Mr. Washinton to keep on getting out of the car. Once Mr. Washinton was out of the car, Deputy Cloud

[7] See R. Doc. 96-3, p. 10.
[8] *Id*. at p.10.
[9] See R. Doc. 96, ¶ 57.
[10] *Id.*
[11] *Id.* at ¶ 58.
[12] See R. Doc. 96-3, p. 8.
[13] *Id*. at p. 6.
[14] *Id*.
[15] *Id.*

asked him: "Do you have any weapons on yourself?" and "Anything crazy I should know about?"[16] After Mr. Washington replied no, Deputy Cloud asked if Plaintiff would mind if he checked. In response, Mr. Washington immediately raised his arms up. Deputy Cloud then instructed Mr. Washington to walk to the rear of his vehicle and stated they were doing so to get out of the roadway.[17] Deputy Cloud then continued with the pat-down search, while Deputy Lewis began an interview, by asking Mr. Washington for his name.

After collecting Mr. Washinton's information, Deputy Lewis retrieved his laptop and begun an inquiry, but, because of poor connectivity, finished the inquiry by calling dispatch.[18] While Deputy Lewis was conducting the inquiry, Deputy Cloud continued the consensual pat-down search. During this search, Deputy Cloud removed Mr. Washington's wallet from his front pocket and placed it on the trunk of Mr. Washington's car.[19] At 7:18 pm, Mr. Washington began to apologize about his driving. Both Deputies responded, indicating that no apology was necessary. Deputy Cloud then gestured toward Mr. Washinton's wallet laying on the trunk and asked if Plaintiff minded if he checked it out. Then, still at 7:18 pm, Mr. Washington retrieved the wallet from the trunk and handed it to Deputy Cloud. More small talk followed, and Mr. Washington apologized again for cutting in front of the Deputies, to which Deputy Cloud responded by once again explaining the reason for the traffic stop.[20] At 7:18 pm, Sergeant Finn asked Mr. Washington, where he was headed. Mr. Washington replied that he was going to his girlfriend's house, in New Orleans, to cut her grass over the weekend.[21]

At 7:19 pm, Deputy Cloud handed Mr. Washington his wallet back as small talk continued

[16] See R. Doc. 96, ¶¶ 72-74.
[17] See R. Doc. 96-3, p. 8.
[18] See R. Doc.96-3, p. 6.
[19] See R. Doc. 96-3, p. 4.
[20] See R. Doc. 96-3, p. 8.
[21] See R. Doc. 96-3, p. 8-9.

between Plaintiff and Deputies Cloud and Finn. At 7:19:26 pm, Deputy Cloud inquired if there was anything "crazy" in Mr. Washington's vehicle that the Deputies should be concerned with. Mr. Washington responded by saying, "No you can look," while simultaneously pointing toward his vehicle.[22] Mr. Washington then added "Do you want me to open the door?" while moving in that direction.[23] Deputy Cloud advised that would not be necessary and instructed him to remain by the rear of the vehicle.[24] At 7:19 pm, Sergeant Finn asked Mr. Washington if he had ever been arrested and Mr. Washington stated he got out of prison in 1991 and has not been in any trouble since. At 7:20 pm, Sergeant Finn attempted to open the rear, passenger side door and when it did not open, he continued to try to open the front passenger door. This caught the attention of Mr. Washington, who stated, "Do you want me to unlock the door?" and began to move to do so. Sergeant Finn stated that would not be necessary, he would unlock the door himself. Mr. Washington and Deputy Cloud continued making small talk and they began to talk about a mutual acquaintance, Sergeant Will McIntyre, who also works for the STPSO. Deputy Lewis then picked up the conversation with Washington as Deputy Cloud went to assist Sergeant Finn with the search of Mr. Washington's vehicle.[25]

The Deputies completed the search of Mr. Washinton's vehicle, filled with bags, boxes, and packages, withing 10 minutes, that is at 7:29 pm. Mr. Washington was immediately informed by Deputy Cloud that he would not be getting a citation for his traffic violation and that he could go. Mr. Washington initiated a fist bump and told Deputy Cloud thank you and went on his way.[26] The January traffic stop lasted for a total of 14 minutes and 24 seconds.[27]

[22] See R. Doc.96-3, p. 9.
[23] See R. Doc.96-3, p. 4, R. Doc.96, ¶ 122.
[24] See R. Doc.96-3, p. 9.
[25] See R. Doc.15-3, p. 8-9.
[26] See R. Doc.15-3, p. 9.
[27] See R. Doc.15, ¶ 320.

iii. The October 8, 2023 traffic stop

On October 8, 2023, Deputy Searle, pulled Mr. Washington over on Highway 121. Deputy Searle exited his patrol vehicle and approached Mr. Washington from the passenger side of his vehicle. He then introduced himself and informed Mr. Washington that he had run a license plate check which revealed no valid insurance.[28] He then requested proof of insurance and asked Mr. Washington for his driver's license.[29] Deputy Searle then returned to his patrol unit and conducted the license check on Mr. Washinton.[30] At 10:36 pm, Deputy Searle informed dispatch that he wanted to initiate an N.C.I.C. check on Mr. Washington. At 10:40 pm, dispatch notified that Mr. Washington had history, but was not currently wanted.[31] After completing the routine checks, Deputy Searle returned to the driver's side window of Mr. Washinton's car, returned his driver license and informed him that he was free to go.[32]

Before stopping Mr. Washington, Deputy Searle not only had no idea that Mr. Washington was Black, but also had no idea whether it was a man or woman who was driving the vehicle being operated by Mr. Washington, much less who Mr. Washington was.[33]

From September 1, 2023, through December 12, 2023, Deputy Searle initiated sixteen (16) traffic stops, with the following demographic/sex breakdown: seven (7) White females, six (6) White males, two (2) Black males and one (1) possibly Hispanic male.[34] Accordingly, during that period, Deputy Searle only pulled over only one (1) other Black male aside from Mr. Washington.[35]

---

[28] See R. Doc. 96, ¶ ¶ 245, 247.
[29] See R. Doc. 96 -14, pg. 3.
[30] See R. Doc. 96 -14, pg. 3.
[31] See R. Doc. 96 -14, pg. 4.
[32] See R. Doc. 96 -14, pg. 3.
[33] See R. Doc. 96-14, pg. 3.
[34] *Id*. at pg. 4.
[35] See R. Doc. 96-14, pg. 3.

iv. Plaintiff's claims

On September 20, 2024, Plaintiff filed his Second Amended Complaint, naming as Defendants, Randy Smith, in his individual capacity and in his official capacity as the Sheriff of St. Tammany Parish, as well as Deputies: George Cox, in his official capacity, Michael Ripoll, Jr., in both his individual and official capacities, Dale Galloway, in both his individual and official capacities, Frank Francois, Jr., in both his individual and official capacities, Chance Cloud, in his individual capacity, Taylor Lewis, in his individual capacity, Curtis Finn, in his individual capacity, Douglas Searle, in his individual capacity, Justin Parker, in both his individual and official capacities, Jeffrey Boehm, in both his individual and official capacities, Denise Mancuso, in both her individual and official capacities, Jeanine Buckner, in both her individual and official capacities, Michael Sevante, in both his individual and official capacities, and Jeremy Church, in his official capacity.[36]

Plaintiff has alleged a number of theories of recovery of damages allegedly stemming from the January and October, traffic stops, including:

1. Unlawful Extension of Detention in Violation of the Fourth Amendment and Fourteenth Amendment and Article 1 Section 5 of the Louisiana Constitution;

2. Unlawful Search and Seizure in Violation of the Fourth and Fourteenth Amendments of the U.S. Constitution and Article 1 Section 5 of the Louisiana Constitution;

3. Unlawful Search of Mr. Washington's Vehicle in Violation of the Fourth and Fourteenth Amendment of the U.S. Constitution and Article 1 Section 5 of the Louisiana Constitution;

4. Unreasonable Seizure in Violation of the Fourth and Fourteenth Amendment of the U.S. Constitution and Article 1 Section 5 of the Louisiana Constitution;

5. *Monell* Liability for Unlawful Searches in Violation of the Fourth Amendment of the U.S. Constitution – Ratification of a Subordinate's Unlawful Act;

[36] See R. Doc. 96, ¶ 9.

6. *Monell* Liability for Unlawful Searches in Violation of the Fourth Amendment of the U.S. Constitution – De Facto Policy;

7. *Monell* Liability for Unlawful Searches in Violation of the Fourth Amendment of the U.S. Constitution – Failure to Train;

8. *Monell* Liability for Unlawful Searches in Violation of the Fourth Amendment of the U.S. Constitution – Single Decision by a Final Policymaker;

9. Violation Under 42 U.S.C. §2000(d)—Title VI of the Civil Rights Act of 1964;

10. *Monell* Liability for Racist Policing Practices in Violation of the Fourteenth Amendment to the U.S. Constitution;

11. Conspiracy to Commit §1983 Violation of Fourth and Fourteenth Amendment Rights;

12. Violation of Article I Section 5 of Louisiana Constitution—Unlawful Search and Seizure;

13. Invasion of Privacy in Violation of Article 1, Section 5 of the Louisiana Constitution;

14. State Law Claim – Negligent Infliction of Emotional Distress related to the January 13, 2023, incident;

15. State Law Claim – Negligent Infliction of Emotional Distress related to the October 8, 2023, incident;

16. State Law Claim – Negligent Infliction of Emotional Distress related to allegedly deficient investigation of the October 8, 2023, incident;

17. State Law Claim for Negligent Supervision/Training;

18. State Law Claim for Failure to Intervene;

19. State Law Claim for False Imprisonment;

20. State Law Claim For Vicarious Liability;

21. *Monell* Claim under the First and Fourth Amendments to the U.S. Constitution in Violation of 42 U.S.C § 1983; and

22. Failure to Respond to Public Records Requests under La. Stat. Ann. § 44:35.

Defendants now move for dismissal of this action, with prejudice, under FRCP 12(b)(6),

as Plaintiff: (a) asserts claims that are duplicative and redundant has failed to state a claim upon which relief can be granted, (b) states claims for which Defendants are entitled to qualified immunity, (c) engages in "group pleading" by categorizing Defendants into groups throughout the Complaint, without distinguishing between the actions of each individual Defendant, and instead, impermissibly attempting to impute the actions of one Defendant to the entire group, and (d) names various STPSO officials as Defendants without providing any facts demonstrating their involvement in the events giving rise to this action.

II. LAW AND ARGUMENT

i. The standard for a 12(b)(6) motion

To withstand a rule 12(b)(6) motion to dismiss, a plaintiff must plead "enough facts to state a claim to relief that is plausible on its face."[37] In order to meet the facial plausibility standard, a court must be able "to draw [a] reasonable inference that the defendant is liable for the misconduct alleged."[38] The court's consideration of facial plausibility must be context-specific and requires resort to judicial experience and common sense.[39] This plausibility standard requires more than pleading "the sheer possibility that a defendant has acted unlawfully."[40] Thus, even if the allegations in the complaint are true, if they cannot support a claim to relief, "this basic deficiency should...be exposed at the point of minimum expenditure of time and money by the parties and the court."[41]

Stated differently, a plaintiff needs to provide "more than labels and conclusions, and a formulaic recitation of a cause of action's elements."[42] A plaintiff cannot simply submit "an

[37] *Doe v. Covington County Sch. Dist.*, 675 F.3d 849, 854 (5th Cir. 2012) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)).
[38] *Id*. (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)).
[39] *Ashcroft*, 556 U.S. at 679.
[40] *Id*. at 678.
[41] *Twombly*, 550 U.S. at 558 (quoting 5 Wright & Miller § 1216 at 233–34).
[42] *Id*. at 555 (citation omitted).

unadorned, the defendant-unlawfully-harmed-me accusation."[43] Rather, factual allegations in a complaint must set forth a claim to relief "above the speculative level."[44] And while factual allegations are accepted as true for purposes of a 12(b)(6) motion, legal conclusions are not.[45]

A plaintiff seeking redress under 42 U.S.C. § 1983, must "establish that [he was] deprived of a right secured by the Constitution or laws of the United States, and that the alleged deprivation was committed under color of state law."[46] To be sure, "§ 1983 is not itself a source of substantive rights, but merely provides a method for vindicating federal rights elsewhere conferred."[47]

ii. Qualified immunity

"[T]he qualified-immunity defense 'shield[s] [government agents] from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'"[48] If an officer sued in his individual capacity invokes qualified immunity, he has "ample room for mistaken judgments," for qualified immunity protects "all but the plainly incompetent or those who knowingly violate the law."[49] To defeat qualified immunity, a plaintiff must show: (1) that the official violated a statutory or constitutional right and (2) that the right was clearly established at the time of the challenged conduct."[50] A fundamental requirement is that the reasonableness of each officer's actions must be analyzed separately.[51] "The movant, on the other hand, can support its motion by relying solely on

---

[43] *Ashcroft*, 556 U.S. at 678 (citation omitted).
[44] *Twombly*, 550 U.S. at 555 (quoting 5 Wright & Miller § 1216 at 235–36).
[45] *Ashcroft*, 556 U.S. at 678 (citation omitted).
[46] *American Manufacturers Mutual Insurance Company v. Sullivan*, 526 U.S. 40 (1999).
[47] *Graham v. Connor*, 490 U.S. 386, 393–94 (1989) (internal citations omitted).
[48] *Dolan v. Parish of St. Tammany*, 2014 U.S. Dist. LEXIS 26200 *citing Behrens v. Pelletier*, 516 U.S. 299, 305 (1996).
[49] *Schambach v. City of Mandeville*, 2022 WL 1773873 (E.D. La. 2022), citing *Mendenhall v. Riser*, 213 F.3d 226, 231 (5th Cir. 2000) (quoting *Malley v. Briggs*, 475 U.S. 335, 343 (1986)); See also *Whitney v. Hanna*, 726 F.3d 631, 638 (5th Cir. 2013) (citations omitted).
[50] *Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011) (citation omitted).
[51] *Marie Ramirez v. Guadarrama*, 844 F. App'x 710, 716 n.4 (5th Cir. 2021) ("Our precedent makes clear that 'we examine each individual's entitlement to qualified immunity separately.'", citing *Carroll v. Ellington*, 800 F.3d 154, 174 (5th Cir. 2015) (internal quotation marks omitted) (citing *Meadours v. Ermel*, 483 F.3d 417, 422 (5th Cir. 2007)

the pleadings."[52]

Qualified immunity exists to ensure that "fear of liability will not unduly inhibit officials in the discharge of their duties."[53] While qualified immunity "does not require a case directly on point for a right to be clearly established, existing precedent must have placed the statutory or constitutional question beyond debate."[54] This "clearly established law should not be defined 'at a high level of generality.'"[55] It must be "particularized to the facts of the case. Otherwise, plaintiffs would be able to convert the rule of qualified immunity...into a rule of virtually unqualified liability simply by alleging violation of extremely abstract rights."[56] The "statutory or constitutional question" must be "beyond debate"[57] and so clearly established that a "reasonably official would have understood that what he is doing violates that right."[58]

This high burden requires Plaintiff to identify a "case where an officer acting under similar circumstances as [each of the defendants] was held to have violated [a person's constitutional rights]."[59] The Fifth Circuit has held that where public officials or officers of "reasonable competence could disagree [on whether the conduct is legal], immunity should be recognized."[60] "If prior case law has not clearly settled the right, and so given officials fair notice of it, the court can simply dismiss the claim for money damages."[61] This notice is paramount, and the Supreme Court has questioned a party for not submitting any Supreme Court cases that address the facts at

---

(holding that it was error for the district court to consider the actions of multiple police officers together)); *Hernandez v. Tex. Dep't of Protective and Regulatory Servs.*, 380 F.3d 872, 883–84 (5th Cir. 2004) (engaging in an individualized analysis of multiple public officials); *Tarver v. City of Edna*, 410 F.3d 745, 752–54 (5th Cir. 2005).

[52] *Disraeli v. Rotunda*, 489 F.3d 628, 631 (5th Cir. 2007).

[53] *Camreta v. Greene*, 563 U.S. 692, 705 (2011) *citing Anderson v. Creighton*, 483 U.S. 635, 638 (1987).

[54] *White v. Pauly*, 137 S. Ct. 548, 551 (2017).

[55] *See White*, 137 S. Ct. at 552.

[56] *Id*.

[57] *Rivas-Villegas v. Cortesluna,* 2021 U.S. LEXIS 5311 at *6 (Oct. 18, 2021) *citing White*, 137 S. Ct. 548, 551.

[58] *Id citing Mullenix v. Luna* 577 U.S. 7, 11 (2015).

[59] *Id*.

[60] *Malley v. Briggs*, 475 U.S. 335, 341 (1986); See also *Gibson v. Rich*, 44 F.3d 274, 277 (5th Cir. 1995) (citing *Babb v. Dorman*, 33 F.3d 472, 477 (5th Cir. 1994)).

[61] *Camreta* 563 U.S. at 705.

bar and has even openly mused about the value of Circuit precedent in clearly establishing law.[62] For this reason the Supreme Court has stated that "[m]any Courts of Appeals therefore decline to consider district court precedent when determining if constitutional rights are clearly established for purposes of qualified immunity," as such decisions do not "settle constitutional standards or prevent repeated claims of qualified immunity."[63] This follows from the general practice of *stare decisis* whereby district court decisions are not binding authority "in either a different judicial district, the same judicial district, or even upon the same judge in a different case."[64] As provided below, Plaintiff fails to identify a violation of any clearly established, protected right, and therefore, Defendants are entitled to qualified immunity.

iii. Plaintiff's *Monell* claims against Defendants, Boehm, Cox, Galloway, Francois, Jr., Parker and Church, in their official capacities, as well as Title VI Claims against Defendants, Bohen, Cox, Galloway, Francois, Jr., Parker and Church, must be dismissed as duplicative and redundant

Plaintiff has filed suit against Sheriff Smith, in his official capacity, asserting various *Monell* claims[65] and Title VI claims.[66] Given that "[o]fficial capacity suits generally represent another way of pleading an action against an entity of which an officer is an agent,"[67] Plaintiff's claims against Sheriff Smith, in his official capacity, are actually claims against the local government entity he serves — the St. Tammany Parish Sheriff's Office.[68] Plaintiff has also filed suit against multiple STPSO officials, in their official capacities, asserting the same *Monell* claims

[62] *Rivas-Villegas,* U.S. LEXIS 5211 at *7.
[63] *Camreta* 563 U.S. at 709; *see also Crane v. Utah Dep't of corr.* 2021 U.S. App. LEXIS 31681 at *7 (10th Cir. 2021); *Matusick v. Erie Cty. Water Auth.,* 757 F.3d 31, 61 (2d Cir. 2014); *Booker v. S.C. Dep't of Corr.,* 855 F.3d 533, 545 (4th Cir. 2017).
[64] *Camreta* 563 U.S. at 709; *see also* 18 Moore's Federal Practice - Civil § 134.02[1][d] (2021).
[65] See Plaintiff's Causes of Action Nos. 5, 6, 7, 8, 10, 21 and 22.
[66] See Plaintiff's Cause of Action No. 9.
[67] *Burge v. Par. of St. Tammany*, 187 F.3d 452, 466 (5th Cir. 1999),
[68] *Pudas v. St. Tammany Parish*, 2019 U.S. Dist. LEXIS 96528 (E.D. La. 2019), citing *Bean v. Pittman*, 2014 U.S. Dist. LEXIS 181112 (E.D. La. 2015).

as the Sheriff, including Deputies Boehm, Cox, Galloway, Francois, Jr., Parker and Church.

The Supreme Court has held that a suit brought against an individual in his official capacity is really "only another way of pleading an action against an entity of which an officer is an agent."[69] "As long as the government entity receives notice and an opportunity to respond, an official capacity suit is, in all respects other than name, to be treated as a suit against the entity."[70] **When a plaintiff names both a municipality and a municipal officer in his official capacity as defendants in an action, the suit against the officer is redundant, confusing, and unnecessary and should be dismissed.**[71]

In *Yazdi v. Lafayette Par. Sch. Bd.*, the plaintiff asserted a *Monell* claim against the Lafayette Parish School Board ("LPSB") and the Superintendent of the Lafayette Parish School System (Mr. Aguillard), in his official capacity.[72] Mr. Aguillard filed a motion to dismiss arguing that the plaintiff's *Monell* claims against were duplicative of the *Monell* claim against LPSB and failed to sufficiently allege any of the elements of a *Monell* claim against him.[73] The court, in addressing plaintiff's *Monell* claims against Mr. Aguillard, cited to the Fifth Circuit case of *Castro Romero v. Becken*, holding that "[w]hen the governmental entity itself is a defendant, claims

---

[69] *Kentucky v. Graham*, 473 U.S. 159, 165 (1985) (quoting *Monell v. New York City Dep't of Soc. Servs.*, 436 U.S. 658, 690 (1978)).
[70] 473 U.S. at 166.
[71] See *Busby v. City of Orlando*, 931 F.2d 764, 776 (11th Cir. 1991) (upholding dismissal of individual defendants sued in their official capacity in § 1983 case); *Cleland v. City of Caney*, 1997 U.S. Dist. LEXIS 1340 (D. Ks. 24, 1997) (dismissing Title VII claim and § 1983 claim against individual defendants named in their official capacity); *Doe v. Douglas County Sch. Dist.*, 775 F. Supp. 1414, 1416 (D. Co. 1991) ("Although there is no Tenth Circuit decision on point, dismissal of plaintiff's redundant [§ 1983] claim is warranted as a matter of judicial economy and efficiency."); *Redpath v. City of Overland Park*, 857 F. Supp. 1448, 1456 (D. Ks. 1994) ("Where the employer has been sued directly, it is duplicative to sue the supervisory employees in their official capacities [in a Title VII case]."); *J.H. v. Neustrom*, 2016 U.S. Dist. LEXIS 180874, at *15-16 (W.D. La. 2016) ("A judgment rendered in a Section 1983 lawsuit against an official in his official capacity imposes liability against the entity that the individual represents. Therefore, it is 'well settled that a suit against a municipal official in his or her official capacity is simply another way of alleging municipal liability.' In this case, […] the Lafayette Parish sheriff is a defendant in the litigation. Therefore, the official-capacity claim against [the Lafayette Parish Sheriff's Office's Director of Corrections] is actually a claim against [the Lafayette Parish sheriff]. In similar circumstances, **courts in this circuit have found it is appropriate to dismiss official-capacity claims**." (Emphasis added.)
[72] *Yazdi v. Lafayette Par. Sch. Bd.*, 2019 U.S. Dist. LEXIS 171106 (W.D. La. 2019).
[73] *Id.*

against employees of the entity in their official capacity are redundant, and therefore should be dismissed."[74] In dismissing plaintiff's *Monell* claims against Mr. Aguillard, the court noted that "[b]ecause LPSB remains a party to this matter, Plaintiff's *Monell* claim against Defendant Aguillard in his official capacity must be dismissed."[75] The Court further dismissed all of Plaintiff's *Monell* claims against the other individual defendants in their official capacities, holding that "those claims would suffer the same defect as the § 1983 claim against Defendant Aguillard in his official capacity, in that they would also be duplicative of the Monell claim against the LPSB."[76]

Here, as in *Yazdi*, it is duplicative for Mr. Washington to assert various *Monell* claims against the St. Tammany Parish Sheriff, Randy Smith, in his official capacity, while also asserting those same claims against Defendants, Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Jr., Justin Parker and Jeremy Church, each in their official capacities. Accordingly, Plaintiff's various *Monell* claims against those Defendants in their official capacities, should be dismissed with prejudice as duplicative and redundant.

iv. *Monell* claims against Defendants in their individual capacities must be dismissed for failure to state a claim and, alternatively, because Defendants are entitled to qualified immunity

Mr. Washington asserts his *Monell* claims (Causes of action No. 5, 6, 7, 8 and 10) against the Sheriff and Supervisor Defendants not only in their official capacities but also in individual. Those individual-capacity *Monell* claims must be dismissed for failure to state a claim to relief that is plausible on its face.

A *Monell* claim is actionable only as to local governing entities and related municipal

[74] *Id*. citing *Castro Romero v. Becken*, 256 F.3d 349, 355 (5th Cir. 2001).
[75] *Id*.
[76] *Id*. at footnote no. 5.

officials. In no event does the *Monell* analysis of governmental policy or practice apply to allegations against someone acting in his or her individual capacity.[77] "Personal-capacity suits, on the other hand, seek to impose individual liability upon a government officer for actions taken under color of state law. Thus, 'on the merits, to establish personal liability in a § 1983 action, it is enough to show that the official, acting under color of state law, caused the deprivation of a federal right.' While the plaintiff in a personal-capacity suit need not establish a connection to governmental 'policy or custom,' officials sued in their personal capacities, unlike those sued in their official capacities, may assert personal immunity defenses such as objectively reasonable reliance on existing law."[78]

Here, despite asserting that the Sheriff and Supervisor Defendants are sued in individual capacities, Mr. Washinton does not allege how those Defendants, individually, caused his alleged deprivation of constitutional rights under the *Monell* Claims.

Moreover, even if Plaintiff stated a *Monell* cause of action against Defendants in their individual capacities, they are protected by qualified immunity. Plaintiff can pint to no case law particularized to their action which would show that they were violative of clearly established constitutional law.

v. Plaintiff's group pleading claims must be dismissed

The Fifth Circuit has held that group pleading is both insufficient to overcome qualified immunity,[79] and insufficient to state a 1983 claim.[80] Accordingly, a § 1983 plaintiff, like Mr.

[77] *Harasz v. Katz*, 239 F. Supp. 3d 461, 465 (D. Conn. 2017), See also *McManus v. St. Tammany Par. Jail*, 2024 U.S. Dist. LEXIS 71608, at *9 (E.D. La. 2024) ("'When an individual is sued in his or her official capacity, it is really a suit against the municipality that employs the defendant." Such claims are analyzed under the *Monell* doctrine. ") (Internal citations omitted.)
[78] *Hafer v. Melo*, 502 U.S. 21, 25 (1991). (Internal citations omitted.)
[79] See *Armstrong v. Ashley*, 60 F.4th 262, 274 (5th Cir. 2023) ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[80] *Armstrong*, 60 F.4th 262, 274 (rejecting group pleading as sufficient to state a § 1983 claim).

Washington, "must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution."[81] As previously noted, the Fifth Circuit confirmed in *Southland Sec. Corp. v. INSpire Ins. Solutions, Inc.*, that it will not "construe allegations contained in the Complaint against the 'defendants' as a group as properly imputable to any particular individual defendant unless the connection between the individual defendant and the [illegal conduct] is specifically pled."[82] Indeed, the Fifth Circuit has specifically noted that "this court has never adopted the 'group pleading' doctrine".[83] "[A] plaintiff bringing a section 1983 action must specify the personal involvement of each defendant."[84]

Furthermore, the Fifth Circuit has held that failure to plead specifically what a particular defendant did is "fatal" to a plaintiff's claim.[85] This is especially true in matters involving the application of qualified immunity, as the reasonableness of an officer's actions ***must be analyzed separately***. See *Marie Ramirez v. Guadarrama*, 844 F. App'x 710, 716 n.4 (5th Cir. 2021) ("Our precedent makes clear that 'we examine each individual's entitlement to qualified immunity separately'").[86] Indeed, just recently the Fifth Circuit reiterated that the lack of any facts within a Complaint as to what a defendant allegedly did, at a minimum, requires dismissal on qualified-immunity grounds. See *Allen v. Hays*, 65 F.4th 736, 743 (5th Cir. 2023) ("When a plaintiff pleads a § 1983 claim that implicates qualified immunity, the complaint "must plead specific facts that

[81] *Ashcroft v. Iqbal*, 556 U.S., 662 at 676 (2009); cf. *Southland Sec. Corp. v. INSpire Ins. Solutions, Inc.*, 365 F.3d 353, 365 (5th Cir. 2004).
[82] *Southland Sec. Corp. v. INSpire Ins. Solutions, Inc.*, 365 F.3d 353, 365 (5th Cir. 2004).
[83] *Southland Sec. Corp.*, 365 F.3d 353, 364–65.
[84] *Murphy v. Kellar*, 950 F.2d 290, 292 (5th Cir. 1992) (emphasis added)
[85] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[86] *Marie Ramirez*, 844 Fed. Appx. 710, citing *Carroll v. Ellington*, 800 F.3d 154, 174 (5th Cir. 2015) (internal quotation marks omitted) (citing *Meadours v. Ermel*, 483 F.3d 417, 422 (5th Cir. 2007) (holding that it was error for the district court to consider the actions of multiple police officers together)); *Hernandez v. Tex. Dep't of Protective and Regulatory Servs.*, 380 F.3d 872, 883–84 (5th Cir. 2004) (engaging in an individualized analysis of multiple public officials); *Tarver v. City of Edna*, 410 F.3d 745, 752–54 (5th Cir. 2005).

both allow the court to draw the reasonable inference that the defendant is liable for the harm he has alleged and that defeat a qualified immunity defense with equal specificity.")

Furthermore, this Circuit, and district courts within it, have consistently dismissed claims/causes of actions due to their reliance on allegations based on group pleading that fail to describe each individual/officer's role. See *Armstrong v. Ashley*, 60 F.4th 262, 274 (5th Cir. 2023) (dismissing plaintiff's due process claim based on group pleading allegations); *Southland Sec. Corp. v. INSpire Ins. Solutions, Inc.*, 365 F.3d 353 (5th Cir. 2004) (affirming dismissal of numerous claims based on group pleading allegations); *Owens v. Jastrow*, 789 F.3d 529 (5th Cir. 2015) (affirming the district court's dismissal of plaintiff's claims, noting that "we disregard the group-pleaded allegations"); *Financial Acquisition Partners LP v. Blackwell*, 440 F.3d 278 (5th Cir. 2006) ("The district court correctly dismissed the claims relying on group pleading."); *Brawley v. Texas*, 2023 WL 2958614 (N.D. Tx. 2023) (dismissing claims of false arrest and failure to intervene based on group pleading allegations); *Schweitzer v. Dagle*, 2024 WL 1348415 (S.D. Tx. 2024) (dismissing claim against defendant, Vences, based on group pleading allegations, which are insufficient to overcome qualified immunity); *Guillot v. Wade*, 2024 WL 1068665 (W.D. La. 2024) (dismissing numerous claims based on group pleading allegations).

In this case, Plaintiff's Complaint asserts numerous causes of actions against various Defendants that Plaintiff has categorized into the following groups: "Officer Defendants",[87] "Supervisor Defendants"[88]-and "Custodian Defendants".[89] Throughout the Complaint, Plaintiff fails to distinguish between the actions of each individual named Defendant, and instead,

[87] See R. Doc. 96, ¶¶ 5, 6, 29, 34, 36, 243, 436, 589, 593, 594.
[88] *Id*. at ¶¶ 29, 239, 242, 244, 458, 472, 478, 479, 480, 481, 505, 507, 567, 601, 602; See also Plaintiff's Causes of Action Nos. 6, 7, 8, 9, 10, 17, 20.
[89] *Id*. at ¶ H, pg. 54, ¶¶ 282, 284, 285, 286, 287, 289, 291, 292, 293, 294, 295, 296, 297, 301, 302, 303, 304, 605, 606, 607, 609, 610, 611, 612, 613, 615, 623, 627, 628, 629, 632; See also, pg. 60, footnote no. 71; See also Prayer for Relief, pg. 124, ¶ 3; See also Plaintiff's Causes of Action Nos. 21 and 22.

impermissibly attempts to impute the actions of one Defendant to the entire group as a whole. For example, Plaintiff's complaint continually refers to the actions of either the "Officer Defendants",[90] "Supervisor Defendants"[91] or "Custodian Defendants",[92] without distinguishing the actions or conduct of each of the individually named Defendants.

Defendants note that the following claims against the following Defendants, which are based entirely on improper allegations of group pleading, must be dismissed for failure to specify the personal involvement of each individual Defendant:

1. Fifth Cause of Action

Plaintiff has asserted a *Monell* claim based on alleged ratification of a subordinate's unlawful act against Defendants, Sheriff Smith, Boehm, Cox, Ripoll, Galloway and Francois.[93] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Sheriff Smith, Boehm, Cox, Ripoll, Galloway or Francois. Instead, Plaintiff's allegations only assert alleged actions and/or inactions undertaken by the "Internal Affairs Division".[94] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[95] Accordingly, Plaintiff's Fifth Cause of Action asserting claims against Defendants, Sheriff Smith, Boehm, Cox, Ripoll, Galloway and Francois, each in their individual and official capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the

[90] Curtis Finn, Taylor Lewis and Douglas Searle.
[91] Jeffrey Boehm, George Cox, Michael Ripoll, Jr., Dale Galloway, Frank Francois, Jr., Justin Parker and Jeremy Church.
[92] Denise Mancuso, Jeanine Buckner, Michael Sevante.
[93] See R. Doc. 96, ¶¶ 438 – 453.
[94] *Id.* at ¶¶ 441, 443 – 451.
[95] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).

Defendants' defense of qualified immunity,[96] and insufficient to state a 1983 claim.[97]

2. Sixth Cause of Action

Plaintiff has asserted a *Monell* claim based on an alleged "De Facto Policy" against Sheriff Smith and the "Supervisor Defendants".[98] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Boehm, Cox, Ripoll, Galloway, Francois, Church or Parker. Instead, Plaintiff's allegations only assert alleged actions and/or inactions undertaken by the "Supervisor Defendants" and the "policymakers" of the STPSO.[99] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[100] Accordingly, Plaintiff's Sixth Cause of Action asserting claims against Boehm, Cox, Ripoll, Galloway, Francois, Church and Parker, each in their individual and official capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[101] and insufficient to state a 1983 claim.[102]

Defendants further note that Plaintiff's allegations additionally fail to even mention the names of, let alone any actions undertaken by Defendants, Boehm and Parker, whom Plaintiff has identified as so-called "Supervisor Defendants". For these additional reasons, Plaintiff's claims against Boehm and Parker, each in their individual and official capacities, must be dismissed with

[96] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[97] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[98] See R. Doc. 96, ¶¶ 454 – 463.
[99] *Id*. at ¶¶ 459 – 460.
[100] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[101] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[102] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).

prejudice.[103]

3. Seventh Cause of Action

Plaintiff has asserted a *Monell* claim based on alleged "Failure to Train" against Sheriff Smith and the "Supervisor Defendants".[104] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Boehm, Cox, Ripoll, Galloway, Francois, Church or Parker.[105] Instead, Plaintiff's allegations only contain one single vague legal conclusion regarding the alleged deliberate indifference on behalf of Sheriff Smith, Cox, Ripoll and Church,[106] as well as one (1) single vague legal conclusion as to the alleged deliberate indifference of the "Supervisor Defendants".[107] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[108] Accordingly, Plaintiff's Seventh Cause of Action asserting claims against Boehm, Cox, Ripoll, Galloway, Francois, Church and Parker, each in their individual and official capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[109] and insufficient to state a 1983 claim.[110]

---

[103] See cases dismissing claims against Defendants whose names appeared in the caption of the Complaint, but Plaintiff failed to allege any conduct taken on their behalf: *Brenckle v. MacFay*, 2018 U.S. Dist. LEXIS 113419 (E.D. La. 2018), citing *Tuley v. Heyd*, 482 F.2d 590 (5th Cir. 1973); *Fontenot v. Texas*,1994 U.S. App. LEXIS 42734 (5th Cir. 1994); *Newton v. Deutsche Bank Nat'l Trust Co. Ams.*, 2024 U.S. Dist. LEXIS 21259 (S.D. Ms. 2024); *Zepeda v. Hamilton Ins. Grp., Ltd.*, 2023 U.S. Dist. LEXIS 174342 (W.D. Tx. 2023); See also *Mayo v. Bankers Life & Cas. Co.*, 2010 U.S. Dist. LEXIS 114999 (S.D. Ms. 2010); *Bueno Invs., Inc. v. Depositors Ins. Co.*, 2016 U.S. Dist. LEXIS 57729 (W.D. Tx. 2016).

[104] See R. Doc. 96, ¶¶ 464 – 473.

[105] *Id*.

[106] *Id*. at ¶ 469.

[107] *Id*. at ¶ 472.

[108] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).

[109] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").

[110] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).

Defendants further note that Plaintiff's allegations additionally fail to even mention the names of, let alone any actions undertaken by Defendants, Boehm, Galloway, Francois or Parker, whom Plaintiff has identified as so-called "Supervisor Defendants". For these additional reasons, Plaintiff's claims against Boehm, Galloway, Francois and Parker, each in their individual and official capacities, must be dismissed with prejudice.[111]

4. Eighth Cause of Action

Plaintiff has asserted a *Monell* claim based on alleged "Single Decision by a Final Policymaker" against Sheriff Smith and the "Supervisor Defendants".[112] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Boehm, Cox, Ripoll, Galloway, Francois, Church or Parker.[113] Instead, Plaintiff's allegations only assert alleged actions and/or inactions undertaken by the "Supervisor Defendants" and the "Defendants".[114] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[115] Accordingly, Plaintiff's Eighth Cause of Action asserting claims against Boehm, Cox, Ripoll, Galloway, Francois, Church and Parker, each in their individual and official capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[116] and insufficient to state a 1983 claim.[117]

---

[111] See *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley*, 482 F.2d 590; *Fontenot*, 1994 U.S. App. LEXIS 42734; *Newton v. Deutsche Bank Nat'l Trust Co. Ams.*, 2024 U.S. Dist. LEXIS 21259; *Zepeda*, 2023 U.S. Dist. LEXIS 174342; *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.
[112] See R. Doc. 96, ¶¶ 474 – 494.
[113] *Id*.
[114] *Id*. at ¶¶ 478 – 481.
[115] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[116] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[117] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).

Defendants further note that Plaintiff's allegations additionally fail to even mention the names of, let alone any actions undertaken by Defendants, Boehm, Cox, Ripoll, Galloway, Francois, Church[118] or Parker, whom Plaintiff has identified as so-called "Supervisor Defendants". For these additional reasons, Plaintiff's claims against Boehm, Cox, Ripoll, Galloway, Francois, Church and Parker, each in their individual and official capacities, must be dismissed with prejudice.[119]

5. Tenth Cause of Action

Plaintiff has asserted a *Monell* claim based on alleged "Racist Policing Practices" against Sheriff Smith and the "Supervisor Defendants".[120] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Boehm, Cox, Ripoll, Galloway, Francois, Church or Parker.[121] Instead, Plaintiff's allegations contain two (2) paragraphs which assert (incorrectly) that Defendants, Cox, Ripoll, Galloway, Francois and Church, implemented and enforced an alleged racially motivated policy.[122] The remainder of Plaintiff's allegations relate to the alleged actions and/or inactions undertaken by the "Supervisor Defendants" and the "Defendants".[123] Indeed, Plaintiff's Complaint alleges that the policies allegedly adopted and implemented by the "Supervisor Defendants" were the direct and proximate cause of alleged constitutional abuses, without distinguishing between the actions undertaken by each individual Defendant.[124] Plaintiff's Complaint further alleges,

[118] Plaintiff's only mention of Defendant, Church, is a vague legal conclusion providing that "…Defendant Church can reasonably be said to have been deliberately indifferent to the need." (See R. Doc. 96, ¶ 477).
[119] See *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley*, 482 F.2d 590; *Fontenot*, 1994 U.S. App. LEXIS 42734; *Newton v. Deutsche Bank Nat'l Trust Co. Ams.*, 2024 U.S. Dist. LEXIS 21259; *Zepeda*, 2023 U.S. Dist. LEXIS 174342; *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.
[120] See R. Doc. 96, ¶¶ 503 – 512.
[121] *Id*.
[122] *Id*. at ¶¶ 505 – 506.
[123] *Id*. at ¶¶ 507, 508, 510 & 511.
[124] *Id* at ¶ 507.

without distinguishing between the actions undertaken by each individual Defendant, that the actions and omissions of the "Defendants" violated Plaintiff's constitutional rights, and that the "Defendants" acted under color of law to deprive Plaintiff of his constitutional rights.[125]

Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[126] Accordingly, Plaintiff's Tenth Cause of Action asserting claims against Boehm, Cox, Ripoll, Galloway, Francois, Church and Parker, each in their individual and official capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[127] and insufficient to state a 1983 claim.[128]

Defendants further note that Plaintiff's allegations additionally fail to even mention the names of, let alone any actions undertaken by Defendants, Boehm or Parker, whom Plaintiff has identified as so-called "Supervisor Defendants". For these additional reasons, Plaintiff's claims against Boehm and Parker, each in their individual and official capacities, must be dismissed with prejudice.[129]

6. Fourteenth Cause of Action

Plaintiff has asserted a State law claim of negligent infliction of emotional distress against Defendants, Cloud, Lewis and Finn.[130] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually

[125] *Id* at ¶ 508.
[126] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[127] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[128] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[129] See *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley*, 482 F.2d 590; *Fontenot*, 1994 U.S. App. LEXIS 42734; *Newton v. Deutsche Bank Nat'l Trust Co. Ams.*, 2024 U.S. Dist. LEXIS 21259; *Zepeda*, 2023 U.S. Dist. LEXIS 174342; *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.
[130] See R. Doc. 96, ¶¶ 544 – 549.

by Cloud, Lewis and Finn.[131] Instead, Plaintiff's Complaint, as it relates to this claim, only mentions the names of Cloud, Lewis and Finn one (1) single time, in a vague, legal conclusion providing that "Officers Cloud, Lewis, and Finn created with their actions 'special circumstances' involving 'the especial likelihood of real and serious mental distress' arising from those allegations."[132]

Other than this single vague legal conclusion, Plaintiff's allegations as it relates to this claim only contains alleged actions undertaken by the "Defendants", without distinguishing between the actions undertaken by each individual Defendant.[133] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[134] Accordingly, Plaintiff's Fourteenth Cause of Action asserting claims against Cloud, Lewis and Finn, each in their individual capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[135] and insufficient to state a 1983 claim.[136]

7. Sixteenth Cause of Action

Plaintiff has asserted a State law claim of negligent infliction of emotional distress against Defendants, Francois, Galloway, Boehm, Ripoll and Cox.[137] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Defendants, Francois, Galloway, Boehm, Ripoll and Cox.[138] Instead,

---

[131] *Id*.
[132] *Id*. at ¶ 547.
[133] *Id*. at ¶¶ 545 – 549.
[134] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[135] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[136] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[137] See R. Doc. 96, ¶¶ 559 – 565.
[138] *Id*.

Plaintiff's allegations as it relates to this claim, mentions the names of Defendants, Francois, Galloway, Boehm, Ripoll and Cox, one (1) single time, in a conclusory allegation providing as follows:

> Mr. Washington asserts that Defendants Francois, Galloway, Ripoll, and Cox violated Louisiana law by committing a negligent tort when conducting the investigation into the October 8, 2023 traffic stop, while acting within the scope of their employment with STPSO.[139]

The remainder of Plaintiff's allegations relate to the alleged actions and/or inactions undertaken by the "Defendants," as a whole, without distinguishing between the actions undertaken by each individual Defendant.[140] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[141] Accordingly, Plaintiff's Sixteenth Cause of Action asserting claims against Defendants, Francois, Galloway, Boehm, Ripoll and Cox, each in their individual and official capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[142] and insufficient to state a 1983 claim.[143]

8. Nineteenth Cause of Action

Plaintiff has asserted a State law claim of false imprisonment against the Defendants, Cloud, Lewis and Finn.[144] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Defendants, Cloud, Lewis or Finn.[145] Instead, Plaintiff's allegations relate solely to the alleged actions and/or

---

[139] *Id*. ¶ 560.
[140] *Id* at ¶¶ 560 – 565.
[141] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[142] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[143] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[144] See R. Doc. 96, ¶¶ 588 – 595.
[145] *Id*.

inactions undertaken by the "Officer Defendants," as a whole, without distinguishing between the actions undertaken by each individual Defendant.[146] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[147] Accordingly, Plaintiff's Nineteenth Cause of Action asserting claims against Defendants, Cloud, Lewis and Finn, each in their individual capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[148] and insufficient to state a 1983 claim.[149]

Defendants further note that Plaintiff's allegations additionally fail to even mention the names of, let alone any actions undertaken by Defendants, Cloud, Lewis and Finn, whom Plaintiff has identified as so-called "Officer Defendants". For these additional reasons, Plaintiff's claims against Cloud, Lewis and Finn must be dismissed with prejudice.[150]

9. Twentieth Cause of Action

Plaintiff has asserted a State law claim of vicarious liability against Sheriff Smith and the "Supervisor Defendants".[151] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Defendants, Boehm, Cox, Ripoll, Galloway, Francois, Church or Parker.[152] Instead, Plaintiff's allegations relate solely to the alleged actions and/or inactions undertaken by both the "Supervisor

[146] *Id* at ¶¶ 589, 593 – 594.
[147] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[148] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[149] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[150] See *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley*, 482 F.2d 590; *Fontenot*, 1994 U.S. App. LEXIS 42734; *Newton v. Deutsche Bank Nat'l Trust Co. Ams.*, 2024 U.S. Dist. LEXIS 21259; *Zepeda*, 2023 U.S. Dist. LEXIS 174342; *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.
[151] See R. Doc. 96, ¶¶ 596 – 602.
[152] *Id*.

Defendants" and "Defendants" as a whole, without distinguishing between the actions undertaken by each individual Defendant.[153] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[154] Accordingly, Plaintiff's Twentieth Cause of Action asserting claims against Defendants, Boehm, Cox, Ripoll, Galloway, Francois, Church or Parker, each in their official and individual capacities, should be dismissed with prejudice, as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[155] and insufficient to state a 1983 claim.[156]

Defendants further note that Plaintiff's allegations additionally fail to even mention the names of, let alone any actions undertaken by Defendants, Boehm, Cox, Ripoll, Galloway, Francois, Church and Parker, whom Plaintiff has identified as so-called "Supervisor Defendants". For these additional reasons, Plaintiff's claims against Boehm, Cox, Ripoll, Galloway, Francois, Church and Parker must be dismissed with prejudice.[157]

10. Twenty-First Cause of Action

Plaintiff has asserted *Monell* claim for alleged violations of the First and Fourth Amendments against Defendants, Sheriff Smith and Boehm, as well as Mancuso, Buckner, Sevante and STPSO Custodians John Doe(s), whom Plaintiff has improperly grouped together as the "Custodian Defendants".[158] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by

[153] *Id* at ¶¶ 598 – 602.
[154] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[155] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[156] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[157] See *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley*, 482 F.2d 590; *Fontenot*, 1994 U.S. App. LEXIS 42734; *Newton v. Deutsche Bank Nat'l Trust Co. Ams.*, 2024 U.S. Dist. LEXIS 21259; *Zepeda*, 2023 U.S. Dist. LEXIS 174342; *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.
[158] See R. Doc. 96, ¶¶ 603 – 618.

Defendants, Sheriff Smith, Boehm, Mancuso, Buckner Sevante or Custodian John Doe(s).[159] Instead, Plaintiff's allegations relate solely to the alleged actions and/or inactions undertaken by both the "Custodian Defendants" and "Defendants" as a whole, without distinguishing between the actions undertaken by each individual Defendant.[160] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[161] Accordingly, Plaintiff's Twenty-First Cause of Action asserting claims against Defendants, Sheriff Smith, Boehm, Mancuso, Buckner Sevante and Custodian John Doe(s), each in their official and individual capacities, should be dismissed with prejudice as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[162] and insufficient to state a 1983 claim.[163]

Defendants further note that Plaintiff's allegations additionally fail to even mention the names of, let alone any actions undertaken by Defendants, Sheriff Smith, Boehm, Mancuso, Buckner, Sevante or Custodian John Doe(s). For these additional reasons, Plaintiff's claims against Defendants, Sheriff Smith, Boehm, Mancuso, Buckner, Sevante and Custodian John Doe(s), each in their official and individual capacities, must be dismissed with prejudice.[164]

11. Twenty-Second Cause of Action

Plaintiff has asserted a State Law claim pursuant to La. R.S. § 44:35 for alleged failure to

[159] *Id*. at ¶¶ 282, 284, 285, 286, 287, 289, 291, 292, 293, 294, 295, 296, 297, 301, 302, 303, 304, 605, 606, 607, 609, 610, 611, 612, 613, 615, 623, 627, 628, 629, 632
[160] *Id* at ¶¶ 605 – 607, 609 – 617.
[161] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[162] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[163] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[164] See *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley*, 482 F.2d 590; *Fontenot*, 1994 U.S. App. LEXIS 42734; *Newton v. Deutsche Bank Nat'l Trust Co. Ams.*, 2024 U.S. Dist. LEXIS 21259; *Zepeda*, 2023 U.S. Dist. LEXIS 174342; *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.

respond to public records requests against Defendants, Sheriff Smith and Boehm, as well as Mancuso, Buckner, Sevante and STPSO Custodians John Doe(s), whom Plaintiff has improperly grouped together as the "Custodian Defendants".[165] However, none of the allegations within Plaintiff's Complaint, as it relates to this claim, allege any personal involvement or actions taken individually by Defendants, Sheriff Smith, Boehm, Mancuso, Buckner, Sevante or Custodian John Doe(s).[166] Instead, Plaintiff's allegations relate solely to the alleged actions and/or inactions undertaken by both the "Custodian Defendants" and "Defendants" as a whole, without distinguishing between the actions undertaken by each individual Defendant.[167] Plaintiff's failure to plead specifically what each individual Defendant did is "fatal" to Plaintiff's claim.[168] Accordingly, Plaintiff's Twenty-Second Cause of Action asserting claims against Defendants, Sheriff Smith, Boehm, Mancuso, Buckner, Sevante and Custodian John Doe(s), each in their official and individual capacities, should be dismissed with prejudice as Plaintiff's allegations, based upon group pleading, are both insufficient to overcome the Defendants' defense of qualified immunity,[169] and insufficient to state a 1983 claim.[170]

Defendants further note that Plaintiff's allegations additionally fail to even mention the names of, let alone any actions undertaken by Defendants, Sheriff Smith, Boehm, Mancuso, Buckner, Sevante or Custodian John Doe(s). For these additional reasons, Plaintiff's claims against Defendants, Sheriff Smith, Boehm, Mancuso, Buckner, Sevante and Custodian John Doe(s), each

[165] See R. Doc. 96, ¶¶ 619 – 632.
[166] *Id*. at ¶¶ 282, 284, 285, 286, 287, 289, 291, 292, 293, 294, 295, 296, 297, 301, 302, 303, 304, 605, 606, 607, 609, 610, 611, 612, 613, 615, 623, 627, 628, 629, 632.
[167] *Id* at ¶¶ 623, 627 – 630, 632.
[168] *Cass v. City of Abilene*, 814 F.3d 721, 730 (5th Cir. 2016) (citing *Meadours v. Ermel*, 483 F.3d 417, 421-422 (5th Cir. 2007).
[169] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[170] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).

in their official and individual capacities, must be dismissed with prejudice.[171]

For the reasons provided more fully above, Defendants aver that the above-noted claims based solely on improper group pleading allegations should be dismissed with prejudice for failure to overcome the Defendants' defense of qualified immunity,[172] and for failing to state a 1983 claim.[173] Defendants further aver that should this Court not dismiss Plaintiff's improper group pleading claims in accordance with Fifth Circuit precedent, that this Court must disregard all group pleading allegations in support of each of Plaintiff's claims, including but not limited to any and all allegations regarding actions and/or inactions allegedly undertaken by the "Internal Affairs Division," "Defendants," "Officer Defendants," "Supervisor Defendants," and "Custodian Defendants," in accordance with further Fifth Circuit precedent. See *Owens v. Jastrow*, 789 F.3d 529 (5th Cir. 2015) ("[W]e disregard the group-pleaded allegations and discern whether the remaining allegations state a claim for relief as to each defendant"); *Southland Sec. Corp. v. INSpire Ins. Solutions, Inc.*, 365 F.3d 353, 365 (5th Cir. 2004) (disregarding the allegations against "defendants" as a group); *Alaska Electrical Pension Fund v. Asar*, 768 Fed. Appx. 175 (5th Cir. 2019) ("This court does not consider group pleading allegations. Nor does this court allow group pleading allegations to establish scienter.")

vi. The first cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff asserts a Claim for Unlawful Extension of Detention in Violation of the Fourth and Fourteenth Amendment and Art. 1 Sect. 5 of the Louisiana Constitution as to Deputies Cloud,

[171] See *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley*, 482 F.2d 590; *Fontenot*, 1994 U.S. App. LEXIS 42734; *Newton v. Deutsche Bank Nat'l Trust Co. Ams.*, 2024 U.S. Dist. LEXIS 21259; *Zepeda*, 2023 U.S. Dist. LEXIS 174342; *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.
[172] *Armstrong*, 60 F.4th 262, 274 ("Armstrong's allegation...suffers from the distinct problem of group pleading: she simply faults the eight Law Enforcement Defendants as a group without factual material suggesting that any particular defendant suppressed evidence.").
[173] *Id*. at 274 (rejecting group pleading as sufficient to state a § 1983 claim).

Finn, and Lewis. Specifically, Plaintiff alleges that Deputies Cloud, Finn, and Lewis stopped, frisked, and searched him and his vehicle on January 13, 2023, without any reasonable suspicion of criminality or other constitutionally required grounds. According to Plaintiff, these stops and frisks were performed on the basis of racial and/or national origin profiling.[174] Mr. Washington alleges that Defendants "readily informed Mr. Washington that the purpose of the stop was to give him a verbal warning"[175] and "that purpose was achieved within the first two minutes of the stop, when Defendant Cloud informed Mr. Washinton of the reason he pulled him over, and Mr. Washington apologized."[176] According to Plaintiff, Defendants impermissibly extended the traffic stop by ten (10) minutes when they had no reasonable suspicion that criminal activity was ongoing or imminent and after Defendant Lewis received confirmation from dispatch that there were no outstanding warrants against Mr. Washington.[177] Plaintiff also alleges conclusorily that Defendants' "conduct was motivated by an evil motive or intent and/or involved reckless or callous indifference to Mr. Washington's federally protected rights."[178]

Plaintiff relies on *Rodriguez v. United States*[179] for the proposition that "even a delay of six to eight minutes following a traffic stop where the detention was unlawfully extended is a violation of a person's Fourth Amendment rights." This argument is clearly mistaken. The question in *Rodriguez* was not if a detention delayed by "six to eight minutes" violates a person's constitutional rights, but "whether reasonable suspicion of criminal activity justified detaining Rodriguez beyond completion of the traffic infraction."[180]

A § 1983 claim for unlawful extension of a traffic stop is evaluated according to the

[174] See R. Doc. 96, ¶ 306.
[175] *Id*. at ¶314.
[176] *Id*. at ¶ 315
[177] *Id*. at ¶ 317, 320
[178] *Id*. at ¶ 324.
[179] *Rodriguez v. United States*, 575 U.S. 348 (2015).
[180] *Rodriguez*, 575 U.S. at. 358.

standards enumerated in *Terry v. Ohio*.[181] A police officer may initiate a traffic stop if he has "an objectively reasonable suspicion that some sort of illegal activity, such as a traffic violation" has occurred.[182] During a traffic stop, an officer may order both the driver and passengers to step out of the car "pending completion of the stop."[183]

After the initial stop, the officer's actions must be "reasonably related in scope to the circumstances that justified the stop of the vehicle in the first place," and the "stop must be temporary and last no longer than is necessary to effectuate the purpose of the stop, unless further reasonable suspicion, articulated by reasonable facts, emerges."[184] "In a valid traffic stop, an officer can request a driver's license, insurance papers, vehicle registration, run a computer check thereon, and issue a citation."[185]

As to the length of detention, the law is established: There is "no constitutional stopwatch on traffic stops."[186] "The constitutionally tolerable duration of any seizure 'is determined by the seizure's mission.'"[187] The mission of a traffic stop is "to address the traffic violation that warranted the stop...and attend to related safety concerns."[188]

Here, as alleged in the Complaint and shown by the exhibits, Mr. Washington's traffic stop was occurred because he crossed the center on Highway 21 (dash line that separates the two lanes), straddled the same for a short distance, and then completed the lane change, all without using his turn signal (blinker).[189] After making the stop for a traffic violation, Defendants were

[181] *Terry v. Ohio*, 392 U.S. 1, 88 (1968)
[182] *United States v. Bams*, 858 F.3d 937, 942 (5th Cir. 2017).
[183] *Maryland v. Wilson*, 519 U.S. 408, 415 (1997).
[184] *Bams*, 858 F.3d at 942 (quoting *United States v. Andres*, 703 F.3d 828, 832 (5th Cir. 2013).
[185] *United States v. Shabazz*, 993 F.2d 431, 437 (5th Cir. 1993).
[186] *United States v. Brigham*, 382 F.3d 500, 511 (5th Cir. 2004).
[187] *United States v. Portillo-Saravia*, 379 F. Supp. 3d 600, 613 (S.D. Tx. 2019) (quoting *Rodriguez v. United States*, 575 U.S. 348, 354 (2015)).
[188] *Rodriguez*, 575 U.S. at 354 (citation omitted).
[189] See R. Doc.15-3, p.10.

lawfully permitted to question Mr. Washington, request his driving license, vehicle registration, and insurance. Additionally, Defendants were permitted to check for any outstanding warrants against Mr. Washington and order him to step out of the car. Under the law, during a traffic stop, an officer may order the driver to step out of the car "pending completion of the stop."[190]

Moreover, a request for consent during the reasonable detention on the traffic stop does not violate the Fourth Amendment because the request does not extend the detention beyond that already permissible incident to the stop.[191] "The general rule that once an officer's purpose in a traffic stop based on probable cause or reasonable suspicion is complete, the officer must let the person go, is subject to a significant exception permitting an officer to engage in further questioning unrelated to the initial stop if he has probable cause, **the consent of the suspect**, or, at a minimum, a reasonable suspicion of criminal activity.")[192]

Here, while the stop was ongoing, Deputy Lewis noticed gleanings of a green vegetable matter on a box, which made him reasonably suspicious about the illegality of the contents in the vehicle. Before Deputy Lewis finally realized that his initial suspicion was unfounded, Deputy Cloud asked Mr. Washington to exit the car. Given that officers are permitted to order occupants out of a car during a traffic stop, even without additional reasonable suspicion,[193] the fact that Deputy Lewis realized that his suspicion was unfounded while Mr. Washington was exiting the car does not affect the legality of the Deputies actions.

After Mr. Washington got out of the car, Deputy Cloud asked for his permission for a pat-down, politely asking if Mr. Washington would not mind this search. In response, Mr.

[190] *Maryland v. Wilson*, 519 U.S. 408, 415 (1997).
[191] *United States v. Ozbirn*, 189 F.3d 1194, 1196 (10th Cir. 1999) (Emphasis added.)
[192] *Id*. (Emphasis added.) See also *United States v. Shabazz*, 993 F.2d 431, 437 (5th Cir. 1993) ("Because the officers were still waiting for the computer check at the time that they **received consent to search the car**, the detention to that point continued to be supported by the facts that justified its initiation.") (Emphasis added).
[193] *Maryland v. Wilson*, 519, U.S. 408, 415 (1997)

Washington raised his hands up, visibly consenting to the pat-down. Then, after the pat-down was complete with Mr. Washington's consent, full cooperation, and even a small-talk, Deputy Cloud asked for Mr. Washinton's consent to search the contents of his wallet. Mr. Washington indeed consented by retrieving the wallet from the trunk of his car and handing it over to Deputy Cloud at 7:18:11 pm. One minute later, Deputy Cloud asked if there was anything inside the vehicle that the Deputies should be concerned about. Mr. Washington responded by saying "no, you can look," clearly and voluntarily consenting to the search of his car. At 7:19:52, Deputy Cloud again advised Mr. Washington that the Deputies would search his car. Hearing that, Mr. Washinton nodded his head and at 7:19:54 said "yes." The Deputies completed the search of Mr. Washinton's vehicle (filled with bags, boxes, and packages) withing 10 minutes, that is at 7:29 pm. The traffic stop on January 31, 2023 lasted for a total of 14 minutes and 24 seconds and was not impermissibly extended by the Deputies, who moved swiftly from stopping Mr. Washington for a traffic violation, though consensual pat-down, consensual search of Mr. Washinton's wallet, and, finally, consensual and quick search of Mr. Washington's vehicle, filled with baggage. Accordingly, in his Complaint with exhibits, Plaintiff has failed to state a claim for unlawful extension of detention, and therefore his claims against Deputies Cloud, Finn, and Lewis must be dismissed with prejudice.

Moreover, even if the Deputies' action could be construed as violative of the Fourth Amendment, which is denied, Deputies Cloud, Finn, and Lewis are entitled to qualified immunity for such actions, because Plaintiff cannot point to any case law **particularized to these actions** which would show they were violative of clearly established constitutional law.

Plaintiff relies on *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975), *Rodriguez v. United States*, 575 U .S. 348, 356-57 (2015), *United States v. Cavitt*, 550 F.3d 430, 436-37 (5th

Cir. 2008), *United States v. Pack*, 612 F.3d 341 (5th Cir. 2010), and *United States v. Estrada*, 459 F.3d 627, 631 (5th Cir. 2006), but none of those clearly establishes that Deputies Cloud, Lewis, and Finn's particular conduct[194] violated Plaintiffs' constitutional rights.

As mentioned above, there is "no constitutional stopwatch on traffic stops."[195] Plaintiff's reliance on *Rodriguez*, is plainly mistaken. First, *Rodriguez* does not put a time limit on a detention following a traffic stop, and second, Mr. Washinton's detention, based on his traffic violation and consent, was lawful.

vii. The second cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff asserts a Claim for Unlawful Search and Seizure in Violation of the Fourth and Fourteenth Amendments of the U.S. Constitution and Article 1 Section 5 of the Louisiana Constitution against Deputies Cloud, Lewis, and Finn.

Plaintiff alleges that Defendant Cloud violated his Fourth Amendment right by searching him without consent.[196] According to Mr. Washington, his conduct during the January traffic stop was not a voluntary consent but "mere acquiescence to a claim of lawful authority."[197] Mr. Washington alleges that he "did not feel he could refuse the search" and that if he refused, Defendant Cloud would have patted him down anyway."[198] Mr. Washington asserts that his "gesture of submission to Defendant Cloud's show of authority did not constitute consent."[199]

---

[194] See, *Morrow v. Meachum*, 917 F.3d 870, 872 (5th Cir. 2019), ("[t]he U.S. Supreme Court has 'repeatedly told courts not to define clearly established law at a high level of generality. Rather, the dispositive question is whether the violative nature of particular conduct is clearly established.'")
[195] *United States v. Brigham*, 382 F.3d 500, 511 (5th Cir. 2004).
[196] See R. Doc. 96, ¶ 342.
[197] *Id*. at, ¶ 336.
[198] *Id.* at ¶341.
[199] *Id.*

1. Deputies Louis and Finn

First, Defendants point out that, although Mr. Washington asserts his Second Cause of Action against Deputies Cloud, Lewis, and Finn, his factual allegations of unlawful search and seizure relate only to Deputy Cloud.[200] Plaintiff's allegations that Defendant Lewis and Finn's conduct violated his clearly established rights, of which reasonable deputies would know or should know, and that they acted on the basis of racial profiling[201] are purely conclusory. At no point in the Complaint does Mr. Washington put forward any factual allegations of Defendants Lewis and Finn committing unlawful search and seizure. Failure to state a cause of action against those Deputies should result in dismissal.

2. Deputy Cloud

The Second Cause of Action should be dismissed against Deputy Cloud also, because Mr. Washington consented to the pat-down and search of his wallet during the legal traffic stop.

The Fourth Amendment protects against "unreasonable searches and seizures" affecting the security of the people's "persons, houses, papers, and effects."[202] "Warrantless searches and seizures inside a home are 'presumptively unreasonable,' but 'because the ultimate touchstone of the Fourth Amendment is 'reasonableness,' the warrant requirement is subject to certain exceptions."[203] "[O]ne of the specifically established exceptions to the requirements of both a warrant and probable cause is a search that is conducted pursuant to consent."[204]

"The voluntariness of consent is a question of fact to be determined from a totality of the circumstances. […] [The Fifth Circuit] considers six factors in evaluating the voluntariness of

[200] See R. Doc. 96, ¶ 335, 336, 337, 343, 344, et seq.
[201] See R. Doc. 96, ¶ 363.
[202] U.S. Const. Am. IV.
[203] *United States v. Scroggins*, 599 F.3d 433, 440 (5th Cir. 2010).
[204] *Id.* (Internal citations omitted.). See also, *United States v. Roser*, 724 F. Supp. 426, 429 (E.D. La. 1989), *Schneckloth v. Bustamonte*, 412 U.S. 218, 93 S. Ct. 2041, 36 L. Ed. 2d 854 (1973).

consent to search, all of which are relevant, but no one of which is dispositive or controlling. The six factors the court considers are the following: (1) the voluntariness of the defendant's custodial status; (2) the presence of coercive police procedures; (3) the extent and level of the defendant's cooperation with the police; (4) the defendant's awareness of his or her right to refuse to consent; (5) the defendant's education and intelligence; and (6) the defendant's belief that no incriminating evidence will be found."[205]

Here, the totality of circumstances indicates that Mr. Washington's consent was valid. First, after Mr. Washington committed a traffic violation, Deputy Could had a right to stop Plaintiff, order him out of the car, take his ID, and run a warrant check, all without additional reasonable suspicion. Throughout the duration of the traffic stop, Mr. Washington was not unlawfully detained. Second, Plaintiff cooperated by answering Deputy Cloud's questions. Deputy Cloud did not once threaten or coerced Mr. Washington in any manner to obtain his consent. Even though Mr. Washington's highest level of education is seventh grade,[206] he had no problems communicating with Deputy Cloud. While Mr. Washington was not informed of his right to refuse to consent to a search, apprising the subject of the right to refuse consent is not required to render consent voluntary.[207] Mr. Washington is not a novice in criminal matters and is well aware of his rights. At the moment of the traffic stop, he was fifty-five years old, and by his own admission, experienced in traffic stops. His first lawsuit against St. Tammany Parish Sherrif and his deputies has been litigated for over two years now[208] with Mr. Washington's active participation. Finally, Mr. Washinton was certainly aware that no incriminating evidence would be uncovered by a body

[205] *United States v. Walker*, 254 F. App'x 300, 301 (5th Cir. 2007).N
[206] Defendants note that according to Mr. Washington's sworn deposition testimony in *Washington I*, his highest level of education is 8th grade.
[207] *United States v. Gonzales*, 842 F.2d 748, 755 (5th Cir. 1988); *United States v. Berry*, 670 F.2d 583, 598 n.14 (5th Cir. 1982).
[208] Case 2:22-cv-00632-LMA-MBN Document 1.

search.

Defendants further note that the United States Supreme Court has held that the standard for measuring the scope of a suspect's consent under the Fourth Amendment is that of "objective" reasonableness – what would the typical reasonable person have understood by the exchange between the officer and the suspect?[209] Although objective reasonableness is a question of law, the factual circumstances are highly relevant when determining what the reasonable person would have believed to be the outer bounds of the consent that was given.[210] Additionally, the Fifth Circuit has held that consent to a warrantless search may be implied by the circumstances surrounding the search or by a person's failure to object to the search.[211]

The Fifth Circuit has further held that "[c]onsent to a search does not need to be explicit."[212] Additionally, the Fifth Circuit has "recognized that consent 'can be implied from silence or failure to object if it follows a police officer's explicit or implicit request for consent.'"[213] Thus, consent can be "inferred from actions that reasonably communicate consent."[214] The Supreme Court, as well as Appellate Courts throughout the country, have held that non-verbal conduct, such as actions and gestures in response to a request to search, constitute implied consent.[215] The Eastern

---

[209] *See Florida v. Jimeno*, 500 U.S. 248, 251 (1991); *See also Florida v. Royer*, 460 U.S. 491, 501-502, 75 L. Ed. 2d 229, 103 S. Ct. 1319 (1983).
[210] *See United States v. Jason*, 203 Fed. Appx. 625, 626-627 (5th Cir. 2006).
[211] *See United States v. Ferguson*, 2001 U.S. Dist. LEXIS 14606, *6 (E.D. La. 2001), citing *United States v. Varona-Algos*, 819 F.2d 81, 83 (5th Cir. 1987), overruled on other grounds; *Johnson v. Smith County*, 834 F.2d 479, 480 (5th Cir. 1987).
[212] *See United States v. Staggers*, 961 F.3d 745, 757 (5th Cir. 2020).
[213] *See United States v. Escamilla*, 852 F.3d 474, 484 (5th Cir. 2017) (quoting *United States v. Martinez*, 410 F. App'x 759, 763 (5th Cir. 2011)).
[214] *See Staggers*, 961 F.3d at 757-58 (citing *United States v. Lewis*, 476 F.3d 369, 381 (5th Cir. 2007)("The officers reasonably interpreted Caldwell's gesture as an invitation to enter the room.")); See also *United States v. Roser*, 724 F. Supp. 426 (E.D. La. 1989)(Finding consent to be voluntary where defendant assumed a 'search position' without providing verbal consent to search his person).
[215] See *United States v. Escamilla*, 852 F.3d 474, 484 (5th Cir. 2017) (quoting *United States v. Martinez*, 410 F. App'x 759, 763 (5th Cir. 2011)); *See also United States v. Drayton*, 536 U.S. 194 (2002)(silently lifting hands in response to the officer's request "Mind if I check you?," was considered consent to a pat-down); See also, *United States v. Martinez*, 537 Fed. Appx. 340 (5th Cir. 2013)("This is not a case where Martinez remained silent, and the officer assumed that her silence indicated consent. Rather, Martinez affirmatively acted in compliance with Sedeno's requests…Martinez's actions in disrobing and squatting indicate her consent, not mere acquiescence, to Sedeno's

District has previously found consent to be voluntary wherein an individual has assumed a "search position" against the wall, without the individual verbally indicating whether or not he actually consents to the search.[216]Accordingly, in order for Mr. Washington's silence to constitute implied consent, it must have been preceded by a request – either explicit or implicit – for consent to search, followed by actions and/or gestures in response to the request that could reasonably be considered to constitute consent to the search. And this is what happened on January 13, 2023.

Further, as noted by the Supreme Court in *Pearson v. Callahan*, "[a]n officer conducting a search is entitled to qualified immunity where **clearly established law does not show that the search violated the Fourth Amendment**.[217] In this case, Plaintiff is unable to provide a single case involving factual circumstances that are remotely similar to the facts at issue herein. Plaintiff is unable to provide any case law where qualified immunity was denied to an officer who requested consent to perform a search and the individual not only failed to decline to consent to the search, but instead, in response to the officer's request, immediately raised his hands into the air, turning his back to the officer, thereby effectively assuming the standard "search position" in order for the officer to perform the search. To the contrary, case law from the Eastern District exists involving a factually similar situation wherein the District Court found that the search did **not** violate the

requests."); *United States v. Cooper*, 43 F.3d 140, 148 (5th Cir. 1995)(noting that a suspect demonstrated cooperation when he voluntarily stood for a patdown search); *United States v. Chrispin*, 181 F. App'x 935, 939 (11th Cir. 2006) (per curiam) ("[A]lthough [defendant] did not express his verbal assent to be searched, his body language—turning away from [the officer] and placing his hands on the police cruiser as if preparing to be searched—gave implied consent"); *United States v. Vongxay*, 594 F.3d 1111, 1119-20 (9th Cir. 2010) (holding defendant consented to search by raising his hands to his head in response to an officer's request to search for weapons); *United States v. Jones*, 254 F.3d 692, 695 (8th Cir. 2001) (defendant's gesture of opening his arms in response to a request to search constituted implied consent); *United States v. Mendoza-Cepeda*, 250 F.3d 626, 629 (8th Cir. 2001) (defendant's gesture of raising arms in response to request to search torso constituted implied consent); *United States v. Wilson*, 895 F.2d 168, 172 (4th Cir. 1990) (implied consent found where defendant responded to request to search by "shrugging his shoulders and raising his arms").

[216] *United States v. Roser*, 724 F. Supp. 426 (E.D. La. 1989)(Finding consent to be voluntary where defendant assumed a 'search position' without providing verbal consent to search his person).

[217] *Pearson v. Callahan*, 555 U.S. 223, 243-44 (2009).

Fourth Amendment.[218]

Indeed, in *United States v. Roser*, the Eastern District found consent to be voluntary where an individual assumed a "search position" against the wall, without the individual verbally indicating whether or not he actually consented to the search.[219] In that case, Agent Simone, a narcotics agent, requested and was provided Mr. Roser's consent to search his carry-on luggage at the New Orleans Airport. Agent Simone stated that, after performing the search and finding no contraband, he noticed Mr. Roser had assumed a search position on the wall of the public concourse, having raised his hands above his head and spread his feet apart.[220] Agent Simone, understanding Mr. Roser's actions to communicate consent, conducted a search of the defendant's person, finding a plastic bag containing cocaine in his jacket. Mr. Roser, however, denied that he assumed a search position or that he had consented to a search of his person.[221] In reaching its decision, the Court discredited Mr. Roser's testimony to the extent that it differed from the testimony of Agent Simone, and found that the Mr. Roser's behavior in assuming a "search position" against the wall to be consistent with his prior statement providing consent to Agent Simone to "search anything he wanted" with regard to his carry-on luggage.[222] Accordingly, the Court concluded that Mr. Roser's actions were voluntary and that his Fourth Amendment rights were not violated.

In this case, the facts are even more clear than in *Roser*,[223] as video evidence of the **entirety** of the traffic stop, as well as the search at issue, exists and has been provided to this Honorable Court. The video, as well as the Complaint with exhibits, establish that in response to Deputy

[218] *See United States v. Roser*, 724 F. Supp. 426 (E.D. La. 1989)(Finding consent to be voluntary where defendant assumed a 'search position' without providing verbal consent to search his person).
[219] *United States v. Roser*, 724 F. Supp. 426, 429 (E.D. La. 1989).
[220] *Id*.
[221] *Id*.
[222] *Id*.
[223] Defendants note that this Court, in *Washington I*, never had the opportunity to review the *Roser* decision.

Cloud's request to perform an officer safety pat-down, Mr. Washington provided his nonverbal consent to the pat-down by immediately raising his hands and standing in a search position.[224] Similarly, Plaintiff consented to the search of his wallet by his actions – handing the wallet to Deputy Cloud. Those actions constituted consent.

Defendants further note that the allegations in the Complaint confirm that Deputy Cloud explicitly asked for consent to conduct the pat-down and to search Plaintiff's wallet. Immediately following Deputy Cloud's request for consent for the pat-down, Mr. Washington remained silent and did not object to the search. Indeed, instead of objecting, Mr. Washington immediately raised his hands into the air and turned his back to Deputy Cloud, thereby effectively assuming the standard "search position," in order for Deputy Thomas to perform the pat-down. Similarly, when Deputy Cloud asked if he could search the wallet, Mr. Washingtons picked it up and handed to the Deputy. Deputy Cloud rightfully inferred that that Mr. Washington's failure to object, followed by his actions immediately following his requests to perform the pat-down and search of the wallet, reasonably communicated that Mr. Washington was consenting to the searches.

As to the scope of the pat-down, Deputy Cloud did not violate Mr. Washington's constitutional rights by reaching into his pockets and taking out the wallet. Under the law, "a police officer's protective search might properly include seizure of an object that feels like a wad of folded bills concealing a weapon."[225] During a *Terry* pat-down, an officer may remove and seize an item based on a reasonable belief that it may pose a danger.[226] Moreover, in some circumstances an officer may seize other contraband.[227] "If a police officer lawfully pats down a suspect's outer

[224] See R. Doc. 96-3, pg. 4; See also Exhibit 1.
[225] *United States v. Williams*, 880 F.3d 713 (5th Cir. 2018), citing *United States v. Ponce*, 8 F.3d 989, 999 (5th Cir. 1993); see also *United States v. Campbell*, 178 F.3d 345, 349 (5th Cir. 1999) (observing that the officer "had not ruled out the possibility that the large bulge was a weapon, and [thus] his removal of the pocket's contents was not beyond the scope of a permissible Terry frisk").
[226] See *United States v. Majors*, 328 F.3d 791, 795 (5th Cir. 2003).
[227] *Minnesota v. Dickerson*, 508 U.S. 366, 374, 113 S. Ct. 2130, 124 L. Ed. 2d 334 (1993).

clothing and feels an object whose contour or mass makes its identity [as contraband] immediately apparent," the officer may lawfully seize that object.[228] To this end, if an officer "feels an object whose contour or mass makes its identity immediately apparent, there has been no invasion of the suspect's privacy beyond that already authorized by the officer's search for weapons."[229] "[T]he dispositive question...is whether the officer who conducted the search was acting within the lawful bounds marked by Terry at the time he gained probable cause to believe that [the item] was contraband."[230]

Here, Deputy Cloud performed the pat-down with Mr. Washington's consent. While touching his pockets, the Deputy felt an object, that upon removal turned out to be a wallet. Since Deputy Cloud could not rule out the possibility that the object he felt was a weapon or contraband without removing it, his action of taking out the contents of Mr. Washington's pocket was within the scope of a permissible pat-down. Defendants again note that Plaintiff provided his nonverbal consent to the search, and that courts have held that failure to object when the search exceeds what he later claims to be more limited consent, is an indication that the search was within the scope of consent.[231]

Plaintiff further alleges that he did not consent but merely acquiesced to Deputy Cloud's show of authority. He asserts that he "did not feel he could refuse the search because it is the position of the STPSO that 'refus[ing] to comply with initial commands' gives rise to reasonable suspicion that would justify a nonconsensual search."[232] Then, Mr. Washington speculates that "[h]ad [he] told Defendant Cloud that he did 'mind' an officer safety patdown, Defendant Cloud

[228] *Minnesota v. Dickerson*, 508 U.S. 366, 375 (1993).
[229] *Id.*
[230] *Id*. at 377.
[231] See *United States v. Patten*, 183 F.3d 1190 (10th Cir. 1999) (Providing that a defendant's failure to object when the search exceeds what he later claims was a more limited consent, is an indication the search was within the scope of consent).
[232] See R. Doc. 96, ¶ 340.

would have patted him down anyway."[233] This purely conclusive speculation is not based on the STPSO's policy or established law, but on a misrepresentation of one of arguments made in *Washington I*. Indeed, Plaintiff confuses an officer's "**initial commands**" with a request for consent to search, and a few paragraphs further in his Complaint, admits that at the time of his search, it was clearly established that failure to cooperate with law enforcement, absent other facts, is not enough to establish probable cause.[234] Plaintiff does not cite any law or the STPSO policy that equates a refusal to consent with reasonable suspicion. Indeed, no such law or policy exists.

Mr. Washington's subjective feeling that "he could not refuse the search" does not vitiate his consent. Under the law, the appropriate legal standard for determining whether consent exists is an objective standard not a subjective one.[235] A person's "actual subjective state of mind at the time that he allegedly gave his consent is not determinative; [the] focus, rather, is on how a reasonable person could have perceived his state of mind at that time."[236] Accordingly, in determining whether a reasonable […] person's consent was involuntary, "[t]he internal psychological pressure associated with a suspect's knowledge […] have no bearing on this question."[237] In sum, "[t]he ultimate question is whether the individual's will has been overborne and his capacity for self-determination critically impaired, such that his consent to search must have been involuntary."[238] When courts assess the validity of consent, they do not look solely at subjective fears but consider the reasonableness of a person's alleged state of mind under the totality of the circumstances test.[239]

---

[233] See R. Doc. 96, ¶ 341.
[234] *Id*. at ¶ 373.
[235] *Florida v. Jimeno*, 500 U.S. 248, 251 (1991); See also *Illinois v. Rodriguez*, 497 U.S. 177 (1990).
[236] *United States v. Starr*, 533 F.3d 985, 995 (8th Cir.2008) citing *United States v. Cedano–Medina*, 366 F.3d 682, 684–85 (8th Cir. 2004).
[237] *United States v. Vinton*, 631 F.3d 476, 482 (8th Cir. 2011).
[238] *United States v. Vinton*, 631 F.3d 476, 482 (8th Cir. 2011).
[239] *Schneckloth v. Bustamonte*, 412 U.S. 218 (1973), see *United States v. Mendenhall*, 446 U.S. 544 (1980), (where the Supreme Court rejected the argument that the stopping and questioning of the defendant would reasonably have

Asserting his second cause of action, Mr. Washington also alleges that Defendant's acts were performed "on the basis of racial profiling"[240] but this allegation is purely conclusory. It is hornbook law that courts need not accept legal conclusions as true, and threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, are not sufficient.[241] Further, conclusory allegations or legal conclusions masquerading as factual conclusions will not suffice to prevent a motion to dismiss.[242] Indeed, the allegation that Deputy Cloud acted on the basis of racial profiling is not the only conclusory statement of the Complaint relating to race. Instead, the Complaint is replete with conclusory allegations of racial discrimination, racial motives, and even a baseless and purely inflammatory allegation of Louisiana's "internalized racial stereotyping of delinquency and dangerousness rooted in the history of criminalization of Black people in Louisiana."[243] However, those conclusory statements are devoid of any factual support. Accordingly, Plaintiff has failed to state a claim for unlawful search and seizure against Deputy Cloud.

Moreover, even if his actions could be construed as violative of the Fourth Amendment, which is denied, Deputy Cloud is entitled to qualified immunity for such action because Plaintiff can point to no case law **particularized to these actions** which show that they were violative of clearly established constitutional law.

Plaintiff relies on various cases,[244] however, none of those establishes clearly that Deputy

---

appeared coercive to the defendant, who was a twenty-two year old Black woman of limited education in the presence of White male government agents.)

[240] See R. Doc. 96, ¶363.

[241] *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

[242] *Rios v. City of Del Rio*, 444 F.3d 417, 419 (5th Cir. 2006).

[243] See R. Doc. 96, ¶ 506.

[244] *United States v. Scroggins*, 599 F.3d 433, 440 (5th Cir. 2010), *United States v. Jaras*, 86 F.3d 383, 390 (5th Cir. 1996) (citing *Bumper v. North Carolina*, 391 U.S. 543, 548-49 (1968)), *United States v. Hernandez*, 701 F. App'x 400, 401 (5th Cir. 2017); *United States v. Cooper*, 43 F.3d 140, 145 n.2 (5th Cir. 1995), *Arizona v. Johnson*, 555 U .S. 323, 326-27 (2009), *Sibron v. New York*, 392 U.S. 40 (1968), *United States v. Johnson*, 932 F.2d 1071, 1073 (5th Cir. 1991), *United States v. Mendenhall*, 446 U.S. 544, 553-54 (1980), and *Washington*, 2022 WL 17844622.
As stated above, *Washington*, 2022 WL 17844622, does not even provide a controlling authority or a robust consensus

Cloud's particular conduct[245] violated Plaintiffs' constitutional rights. As argued above, valid and voluntary consent constitutes a basis for a pat-down search.[246] Here, Mr. Washington validly consented to the pat-down. Accordingly, Mr. Washington's second cause of action against Defendant Cloud must be dismissed.

viii. The third cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity.

Plaintiff asserts a claim for Unlawful Search of Mr. Washington's Vehicle in Violation of the Fourth and Fourteenth Amendment of the U.S. Constitution and Article 1 Section 5 of the Louisiana Constitution against Defendants Cloud, Lewis, and Finn. Mr. Washington alleges, again, that he did not consent to the search of his car, but merely acquiesced to Deputy Cloud's show of authority. According to Plaintiff, "because [his] traffic stop was being unlawfully extended, he was being unlawfully detained, and thus any consent he *may* have given was immediately subsequent to a flagrantly unlawful search, and so could not have been an independent act of free will."[247] (Emphasis original.) However, Plaintiff's second cause of action fails to meet the facial plausibility standard of *Ashcroft v. Iqbal*.

As previously noted, the Fifth Circuit analyzes the legality of a traffic stop under the two-part test articulated in *Terry v. Ohio*,[248] which requires that the Court evaluate: (1) whether the officer's action was "justified at its inception," and (2) whether the officer's subsequent actions were "reasonably related in scope to the circumstances which justified the stop in the first place.

---

of persuasive authority. See, *Jimerson v. Lewis*, 92 F.4th 277, 282 (5th Cir. 2024), citing *Delaughter v. Woodall*, 909 F.3d 130, 139 (5th Cir. 2018).

[245] See, *Morrow v. Meachum*, 917 F.3d 870, 872 (5th Cir. 2019), ("[t]he U.S. Supreme Court has 'repeatedly told courts not to define clearly established law at a high level of generality. Rather, the dispositive question is whether the violative nature of particular conduct is clearly established.'")

[246] *United States v. Scroggins*, 599 F.3d 433, 440 (5th Cir. 2010).

[247] See R. Doc. 96, ¶391

[248] *Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968)

Here, Deputies Cloud, Lewis, and Finn's actions in performing the initial traffic stop were justified as they observed the vehicle being operated by Mr. Washington conduct improper lane changes and fail to use a turn signal. Additionally, Defendant Cloud's ordering Mr. Washington to get out of the vehicle was entirely within the law. Also, Defendants' actions in questioning Mr. Washinton, requesting his identification and performing a check for the existence of any outstanding warrants, were lawful actions that have been found to be standard procedure for the handling of traffic stops. As previously mentioned, after he exited the car, Mr. Washington freely and voluntarily consented to the pat-down. Later, he also consented to the search of his car. As admitted by Mr. Washington, Defendant Cloud stated that the STPSO officers would "go through [his] car to make sure [he] didn't have anything crazy."[249] This statement could and did constitute a request for consent and, as Plaintiff admits, "it was clear that the object of the search was weapons and illegal drugs."[250] In response to Defendant Cloud's request, Mr. Washinton readily responded by saying, "no you can look", while simultaneously pointing toward his vehicle. He then added "do you want me to open the door," while moving in its direction.[251] Deputy Cloud advised that would not be necessary and instructed him to remain by the rear of the vehicle.[252]

As fully analyzed above, in Paragraph II (vi), "[o]ne of the specifically established exceptions to the requirements of both a warrant and probable cause is a search that is conducted pursuant to consent."[253] Moreover, the voluntariness of consent is a question of fact to be determined from a totality of the circumstances under the six factors of *Walker*.[254] Here, those factors again point to Mr. Washington's voluntary consent. Mr. Washington fully cooperated with

[249] *Id.* at ¶ 415.
[250] *Id.*.
[251] See R. Doc. 96-3, p. 4, R. Doc. 96, ¶ 122.
[252] See R. Doc. 96-3, p. 9.
[253] *Id.* (Internal citations omitted.). See also, *United States v. Roser*, 724 F. Supp. 426, 429 (E.D. La. 1989), *Schneckloth v. Bustamonte*, 412 U.S. 218, 93 S. Ct. 2041, 36 L. Ed. 2d 854 (1973).
[254] *United States v. Walker*, 254 F. App'x 300, 301 (5th Cir. 2007).

the Deputies, who did not threaten, coerced, or tricked him in any manner. Mr. Washington had no difficulty communicating with the Deputies. Mr. Washington was not informed of his right to refuse consent to a search, as it is not necessary to inform someone of this right in order for their consent to be considered voluntary.[255] Mr. Washington is not inexperienced in criminal matters and is well aware of his rights.

Accordingly, the Plaintiff has failed to establish a claim for unlawful search of his car against Deputies Cloud, Lewis, and Finn.

Moreover, even if the Deputies' action could be construed as violative of the Fourth Amendment, which is denied, Deputies Cloud, Finn, and Lewis are entitled to qualified immunity for such actions, because Plaintiff cannot point to any case law **particularized to these actions** which would show they were violative of clearly established constitutional law. Plaintiff relies on numerous cases,[256] however, none of Plaintiff's cases clearly establishes that Deputies Cloud, Lewis, and Finn's particular conduct[257] violated Plaintiffs' constitutional rights.

As explained above, an individual may be subject to a vehicle search pursuant to a valid consent.[258] Here, Mr. Washington validly consented to the search of his car. Accordingly, Mr.

---

[255] See *United States v. Gonzales*, 842 F.2d 748, 755 (5th Cir. 1988); *United States v. Berry*, 670 F.2d 583, 598 n.14 (5th Cir. 1982).

[256] *United States v. Mendoza-Gonzalez*, 318 F.3d 663, 666 (5th Cir. 2003), *Dakota v. Opperman*, 428 U.S. 364, 367-68 (1976), *Almeida-Sanchez v. United States*, 413 U.S. 266, 269-70 (1973), *United States v. Ross*, 456 U.S. 798, 807-09 (1982), *Chambers v. Maroney*, 399 U.S. 42, 51 (1970), *United States v. Ortiz*, 422 U.S. 891, 896 (1975), *United States v. Strong*, 552 F.2d 138 (5th Cir. 1977), *United States v. Jaras*, 86 F.3d 383, 390 (5th Cir. 1996) (citing Bumper, 391 U.S. at 548-49), *United States v. Macias*, 658 F.3d 509 (5th Cir. 2011), *United States v. Jones*, 234 F.3d 234, 241 (5th Cir. 2000), *United States v. Portillo-Aguirre*, 311 F.3d 647 (5th Cir. 2002); *Florida v. Royer*, 460 U.S. 491 (1983*), United States v. Jenson*, 462 F.3d 399 (5th Cir. 2006), *United States v. Macias*, 658 F.3d 509 (5th Cir. 2011), *United States v. Gomez-Moreno*, 479 F.3d 350, 357 (5th Cir. 2007), *United States v. Hernandez*, 279 F.3d 302, 307 (5th Cir. 2002), *Florida v. Jimeno*, 500 U.S. 248, 251 (1991), *United States v. Ross*, 456 U.S. 798 (1982), *United States v. Cotton*, 722 F.3d 271, 275 (5th Cir. 2013) (citing *United States v. Garcia*, 604 F.3d 186, 190 (5th Cir.2010) and *Mendoza—Gonzalez*, 318 F.3d at 666-67), *United States v. Rich*, 992 F.2d 502, 508 (5th Cir. 1993), *J.JV. v. State*, 17 So. 3d 881 (Fla. Dist. Ct. App. 2009),

[257] See, *Morrow v. Meachum*, 917 F.3d 870, 872 (5th Cir. 2019), ("[t]he U.S. Supreme Court has 'repeatedly told courts not to define clearly established law at a high level of generality. Rather, the dispositive question is whether the violative nature of particular conduct is clearly established.'")

[258] *United States v. Mendoza-Gonzalez*, 318 F.3d 663, 666 (5th Cir. 2003).

Washington's second cause of action against Defendants Cloud, Lewis, and Finn must be dismissed.

ix. The fourth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendant Searle is entitled to qualified immunity

Defendants first note that Plaintiff seems to take issue with Deputy Searle operating his vehicle on the same roadway, and at the same time as he was, alleging that Deputy Searle followed him with his vehicle. Defendants note that there is no cause of action that can be asserted against a deputy for driving his vehicle on a public road.

With regard to Plaintiff's allegations that Deputy Searle informed him that the reason he pulled him over after running his license plate was because his system provided that Mr. Washington did not have valid insurance. Plaintiff asserts that this was false, as he did have valid insurance, and that therefore the alleged seizure was unlawful, as Deputy Searle did not have reasonable suspicion to conduct a traffic stop.

Defendants note that the Fifth Circuit has held that an officer's reliance on a computer database indication of insurance status is sufficient to establish reasonable suspicion, even if the computer database is incorrect.[259] Therefore, regardless of whether or not the computer database was accurate, Deputy Searle had reasonable suspicion to pull Plaintiff over because the computer database that Deputy Searle ran Plaintiff's name through indicated that he did not have valid insurance. Accordingly, the traffic stop of Mr. Washington was lawful, and any reasonable officer in Deputy Searle's position would have assumed the traffic stop was lawful.

[259] See *United States v. Broca-Martinez*, 855 F.3d 675 (5th Cir. 2017) (Finding reasonable suspicion to conduct a traffic stop where the computer database reported the driver's insurance status as unconfirmed: "Even if Officer Leal was not positive Broca-Martinez was uninsured, he cleared the bar for reasonable suspicion. An officer does not have to be certain a violation has occurred. This would raise the standard for reasonable suspicion far above probable cause or even a preponderance of the evidence, in contravention of the Supreme Court's instructions"); See also *United States v. Vela*, 2016 U.S. Dist. LEXIS 7934 (S.D. Tex. 2016) (Finding reasonable suspicion for a vehicle stop when a computer database search returned an "unconfirmed" insurance status)

Plaintiff's complaint additionally raises the issue of Deputy Searle's recollection of the specifics of the October 8, 2023 traffic stop during an interview with internal affairs taking place on December 12, 2023, **over two (2) months after the traffic stop occurred**.[260] Defendants first note that Plaintiff's attempt to create some nefarious issue out of an officer's recollection of specific details of a **routine traffic stop** over **two (2) months after it occurred** is unavailing. Regardless, during the interview with internal affairs Deputy Searle provided that to the best of his recollection, considering it had been more than two months since the incident, that he believed he pulled over Mr. Washington because his license plate was not illuminated.[261]

Defendants note that under Louisiana law, specifically La. R.S. 32:304(C), a license plate must be properly illuminated.[262] Federal and state courts in Louisiana have continually found traffic stops to be lawful when the officer has reasonable suspicion of a violation of La. R.S. 32:304(C).[263] Accordingly, even if Deputy Searle believed that he stopped Mr. Washington due to his license plate not being properly illuminated, the traffic stop would still be lawful, and any reasonable officer in Deputy Searle's position would have assumed the traffic stop was lawful.

Additionally, Defendants note that even if Deputy Searle was not positive that a violation

---

[260] See R. Doc. 96, ¶ 269.
[261] See R. Doc. 96-14, pg. 3.
[262] See La. R.S. 32:304(C): "Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted."
[263] *Walker v. Jackson Parish Dist. Atty.'s Office*, 2015 U.S. Dist. LEXIS 25943 (W.D. La. 2015) (Officer Spillers had probable cause and/or reasonable suspicion to believe that a traffic violation occurred due to a non-functioning license plate light and the license plate not being clearly legible from a distance of fifty feet— in violation of La. R.S. 32:304(C) and 32:311(B)); *State v. Brown*, 2014 La. App. Unpub. LEXIS 532 (La. App. 1 Cir. 2014) (Officer Higginbotham had probable cause to believe traffic violations (Not wearing seatbelt and license plate not having proper illumination) had occurred and, as such, had an objectively reasonable basis for stopping the defendant's vehicle); *State v. Wilder*, 983 So. 2d 124 (La. App. 5 Cir. 2008) (the stop was lawful after police observed the defendant driving with defective license plate illumination on a public street, in violation of LSA-R.S. 32:304(C), an offense under the Highway Regulatory Act.); *State v. Flournoy*, 209 So.3d 150 (La. App. 3 Cir. 2016) (Finding that Officer Walker had reasonable cause to stop the defendant's vehicle due to violation of La R.S. 32:304(C)); See also *United States v. Cabello*, 92 Fed. Appx. 983 (5th Cir. 2004) ("The initial traffic stop was valid because the vehicle in which Cabello was riding did not have a properly illuminated license plate as required by Texas law, thus giving the officer a specific, articulable basis for stopping the vehicle.")

had occurred, as Plaintiff seems to allege, he has still met the burden of reasonable suspicion, as the law is clear in that an officer does not have to be certain a violation has occurred.[264] To require that an officer be certain that a traffic violation occurred would "...raise the standard for reasonable suspicion far above probable cause or even a preponderance of the evidence, in contravention of the Supreme Court's instructions."[265]

As noted above in Paragraph II (vi), the jurisprudence of the Fifth Circuit is clear in that there is "no constitutional stopwatch on traffic stops."[266] "The constitutionally tolerable duration of any seizure 'is determined by the seizure's mission."[267] The mission of a traffic stop is "to address the traffic violation that warranted the stop...and attend to related safety concerns."[268] During a valid traffic stop, police are entitled to conduct any necessary investigation relating to the stop. Such investigations are treated as the equivalent of *Terry* stops. The investigation includes computer review of the driver's license, registration, outstanding warrants, or reports that the vehicle has been stolen.[269] During the computer check, the officer may also inquire of the individual about where the driver came from, where the driver is going and persons the driver intends to visit.[270] Additionally, "an officer's inquiries into matters unrelated to the justification for

---

[264] *United States v. Broca-Martinez*, 855 F.3d 675 (5th Cir. 2017), citing *United States v. Castillo*, 804 F.3d 361 (5th Cir. 2015).
[265] *United States v. Castillo*, 804 F.3d 361 (5th Cir. 2015).
[266] *United States v. Brigham*, 382 F.3d 500, 511 (5th Cir. 2004).
[267] *United States v. Portillo-Saravia*, 379 F. Supp. 3d 600, 613 (S.D. Tx. 2019) (quoting *Rodriguez v. United States*, 575 U.S. 348, 354 (2015)).
[268] *Rodriguez*, 575 U.S. at 354
[269] *Rodriguez v. United States*, 575 U.S. 348 (2015) ("Beyond determining whether to issue a traffic ticket, an officer's mission includes "ordinary inquiries incident to [the traffic] stop." Typically such inquiries involve checking the driver's license, determining whether there are outstanding warrants against the driver, and inspecting the automobile's registration and proof of insurance. These checks serve the same objective as enforcement of the traffic code: ensuring that vehicles on the road are operated safely and responsibly."); *United States v. Pack*, 612 F.3d 341, 350 (5th Cir. 2010) modified on rehearing, 622 F. 3d 383 (5th Cir. 2010); accord *United States v. Parker*, 2015 U.S. Dist. LEXIS 61939 (E.D. La. 2015) ("During [a traffic stop], an officer may...ask the occupants for identification and run a computer check for outstanding warrants."); *United States v. Kirksey*, 485 F.3d 955 (7th Cir. 2007); *United States v. Olivera-Mendez*, 484 F.3d 505 (8th Cir. 2007); *United States v. Ward*, 484 F.3d 1059 (8th Cir. 2007) (officer may check the VIN number); *United States v. Santiago*, 310 F.3d 336 (5th Cir. 2002).
[270] *United States v. Estrada*, 459 F.3d 627 (5th Cir. 2006); *United States v. Brigham*, 382 F.3d 500 (5th Cir. 2004).

the traffic stop do not convert the encounter into something other than a lawful seizure, so long as those inquiries do not measurably extend the stop's duration."[271]

In this case, because Deputy Searle conducted a lawful traffic stop based on reasonable suspicion that a traffic violation had occurred, it was permissible for Deputy Searle to conduct an investigation relating to the stop, *i.e.* a *Terry* stop, which includes conducting a computer review of the driver's license, registration, outstanding warrants, or reports that the vehicle has been stolen, etc.[272] Accordingly, Deputy Searle's actions in running a license check were lawful.

Regarding Plaintiff's allegation that Deputy Searle allegedly seized him using "force and words a reasonable person would be afraid to ignore,"[273] Defendants note that any specific allegations of force and/or words used by Deputy Searle are conspicuously absent from Plaintiff's complaint. Indeed, the Complaint contains no allegations of any force used by Deputy Searle or any statements made by Deputy Searle besides informing Plaintiff of the reason as to why he was pulled over.

With regard to Plaintiff's allegations that Deputy Searle pulled him over because he was "a Black man driving at night,"[274] Defendants first note that in conducting a Fourth Amendment inquiry, the Fifth Circuit has made clear that officer's subjective motivations are irrelevant in determining whether his or her conduct violated the Fourth Amendment.[275] Indeed, as long as a

---

[271] *Arizona v. Johnson*, 555 U.S. 323, 325 (2009).
[272] *Rodriguez*, 575 U.S. 348 (2015); *United States v. Pack*, 612 F.3d 341, 350 (5th Cir. 2010) modified on rehearing, 622 F. 3d 383 (5th Cir. 2010); accord *United States v. Parker*, 2015 U.S. Dist. LEXIS 61939 (E.D. La. 2015); *United States v. Kirksey*, 485 F.3d 955 (7th Cir. 2007); *United States v. Olivera-Mendez*, 484 F.3d 505 (8th Cir. 2007); *United States v. Ward*, 484 F.3d 1059 (8th Cir. 2007); *United States v. Santiago*, 310 F.3d 336 (5th Cir. 2002); *United States v. Valadez*, 267 F.3d 395 (5th Cir. 2001) (After the officer is satisfied that no traffic violation has occurred and no other reasonable suspicion exists, the officer may not detain the individual for the results of a criminal history check or make inquiry about weapons or drugs in the vehicle. At no time during the stop did the officer indicate he had reasonable suspicion to fear for his safety or to suspect the commission of any other offense.); *United States v. Jones*, 234 F.3d 234 (5th Cir. 2000).
[273] See R. Doc. 96, ¶ 432.
[274] *Id*. at ¶ 249.
[275] *United States v. Lopez-Moreno*, 420 F.3d 420, 432 (5th Cir. 2005).

traffic law infraction that would have objectively justified the stop has taken place, the fact that the police officer may have made the stop for a reason other than the occurrence of the traffic infraction is irrelevant for purposes of the Fourth Amendment.[276] Accordingly, Plaintiff's allegations about Deputy Searle's subjective motivations for the traffic stop are irrelevant.

Regardless of the relevance of Deputy Searle's alleged subjective motivations for conducting the traffic stop, Plaintiff's claim that the stop was based on race is disproven by Plaintiff's own exhibit. The exhibit shows that Deputy Searle had no knowledge that Mr. Washington was Black, did not know the gender of the driver, and had no idea who Mr. Washington was at the time of the stop.[277]

> Question: Were you aware that Washington was a black male before you decided to execute a traffic stop?
>
> Answer: Absolutely not… I didn't know if it was a male or female.
>
> Question: Do you consciously pull over black males just because they are black males?
>
> Answer: Absolutely not…
>
> Sergeant Francois asked Dy. Searle one finale question and that was if he knew Washington prior to the traffic stop in question, to which he stated he did not. [278]

Additionally, a review of Deputy Searle's body worn camera footage further indicates that Deputy Searle does **not** pull people over based on their race, as the footage provided that from September 1, 2023 through December 12, 2023, Deputy Searle initiated sixteen (16) traffic stops, with the following demographic/sex breakdown: seven (7) White females, six (6) White males, two (2) Black males[279] and one (1) possibly Hispanic male.[280] As the data from Deputy Searle's body camera provides, White people were stopped at a rate of 81.25%, while black men were

[276] *Goodwin v. Johnson*, 132 F.3d 162, 173 (5th Cir. 1998).
[277] See R. Doc. 96-14, pg. 3.
[278] *Id*.
[279] One of these two (2) Black males was Mr. Washington.
[280] *Id*. at 4.

stopped at 12.5% and Black women at a rate of 0.0%.[281] In fact, from September 1, 2023 through December 12, 2023, Deputy Searle only pulled over only one (1) other Black male aside from Mr. Washington. Defendants note that Plaintiff's own Complaint fully supports the fact that Deputy Searle does **not** engage in racial discrimination/policing. As the data from Deputy Searle's traffic stops indicates, Deputy Searle stopped White drivers at an alarmingly higher rate of 68.75%, while the Complaint baselessly alleges that Black individuals in St. Tammany Parish during that same time period were "250% (3.5 times) more likely to be stopped for alleged traffic violations than White individuals."[282]

As the facts clearly show, Plaintiff's claims that Deputy Searle is a racist who pulled him over solely because he is a Black man are entirely without merit. This Court similarly found Mr. Washington's previous claims of racial discrimination baseless when they were dismissed early on in *Washington I*.[283]

Defendants further note that any allegations regarding Plaintiff's belief that Deputy Searle may have violated any STPSO policies and/or procedures is irrelevant to prove that a constitutional violation occurred.[284] In other words, STPSO policies "shed[] no light on what may or may not be considered 'objectively reasonable' under the Fourth Amendment given the infinite set of disparate circumstances which officers might encounter."[285]

Accordingly, Plaintiff has failed to state a valid claim for an alleged unlawful seizure

---

[281] *Id*.
[282] See R. Doc. 96, ¶ 15.
[283] See *Washington v. Smith*, 639 F. Supp. 3d 625, 656 – 658 (E.D. La. 2022) (dismissing Mr. Washington's Title VI Claim for failure to state a claim for relief).
[284] *Dotson v. Edmonson*, 2018 U.S. Dist. LEXIS 9923 (E.D. La. 2018), citing *Tanberg v. Sholtis*, 401 F.3d 1151, 1163-64 (10th Cir. 2005) (Noting "[t]hat an arrest violated police department procedures does not make it more or less likely that the arrest implicates the Fourth Amendment, and evidence of the violation is therefore irrelevant.")
[285] *Dotson*, 2018 U.S. Dist. LEXIS 9923, citing *Herrera v. Aguilar*, 2013 U.S. Dist. LEXIS 136071 (W.D. Tx. 2013) (quoting *Thompson v. City of Chicago*, 472 F.3d 444, 453 (7th Cir. 2006) (a violation of the Chicago Police Department's General Orders "would have failed to advance the inquiry" into whether an officer violated the plaintiff's Fourth Amendment rights by using excessive force")).

against Deputy Searle, and Plaintiff's claim should be dismissed with prejudice. Defendants further note that because Plaintiff has failed to state a valid claim for an alleged unlawful seizure against Deputy Searle, Plaintiff's state law claim of negligent infliction of emotional distress, which is based completely on the traffic stop at issue, similarly fails and must therefore be dismissed with prejudice.

Moreover, even if Deputy Searle's actions are construed as violative of the Fourth Amendment, Fourteenth Amendment and/or Article 1 Section 5 of the Louisiana Constitution, Deputy Searle is entitled to qualified immunity for all such actions. Plaintiff cannot cite any case law specific to Defendant's actions that demonstrates Deputy Searle's conduct during a routine traffic stop violated clearly established constitutional law.

x. The fifth, sixth, seventh, eighth, and tenth causes of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff brings his *Monell* claims related to the January and October traffic stops as well as alleged racial profiling, and divides them into five causes of action:

Cause of Action No. 5 – for alleged Ratification of a Subordinate's Unlawful Act,

Cause of Action No. 6 – for alleged De Facto Policy,

Cause of Action No. 7 – for alleged Failure to Train,

Cause of Action No. 8 – for alleged Single Decision by a Final Policymaker, and

Cause of Action No. 10 – for alleged Racist Policing Practices.[286]

To state a valid § 1983 *Monell* claim, Plaintiffs must "allege the existence of (1) an official policy or custom, of which (2) a policymaker can be charged with actual or constructive

[286] Cause of action No. 21, also labelled as *Monell* claim is not related to Plaintiff's traffic stops but his requests for public records and will be addressed below.

knowledge, and (3) a constitutional violation whose 'moving force' is that policy or custom."[287]

In this action, Plaintiff makes merely conclusory or plainly false allegations as to the *Monell* claims. Defendants will address the issues specific to each of *Monell* causes of action individually below. However, they request that the Court first takes into consideration that all those causes of action lack any facial plausibility, because they are founded on **the following false, conclusory, speculative or purely inflammatory allegations:**

1. Racially biased policing practices

An "official policy or custom" giving rise to liability pursuant to *Monell* may be "a persistent, widespread practice which, although not officially promulgated, is so common and well settled as to constitute a custom that fairly represents municipal policy."[288] However, "[a] plaintiff may not infer a policy merely because harm resulted from some interaction with a governmental entity."[289] To plausibly plead "a practice 'so persistent and widespread as to practically have the force of law,'...a plaintiff must do more than describe the incident that gave rise to his injury."[290]

Here, Mr. Washington, instead of laying out an "official policy or custom" relies on his subjective and highly speculative impression that his interactions with the STPTO Deputies were racially motivated. Indeed, Mr. Washington starts his Complaint with a reference to the tragic death of Tyre Nichols in Memphis, which was shocking to all Americans, but not related to the St. Tammany Parish Sheriff or other Defendants' actions in any way. Then, Plaintiff makes countless conclusory and purely inflammatory allegations of "biased policing practices,"[291] "STPSO officers using race and/or national origin, not reasonable suspicion, as the determinative factors in deciding

[287] *Valle v. City of Houston*, 613 F.3d 536, 542 (5th Cir. 2010).
[288] *Esteves v. Brock*, 106 F.3d 674, 677 (5th Cir. 1997).
[289] *Pudas v. St. Tammany Par., La.*, 2019 U.S. Dist. LEXIS 96528, at *3 (E.D. La. 2019) (quoting *Colle v. Brazos Cnty., Tex.*, 981 F.2d 237, 245 (5th Cir. 1993)).
[290] *Peña v. City of Rio Grande City*, 879 F.3d 613, 622 (5th Cir. 2018).
[291] See R. Doc. 96, ¶ 2.

to frisk and/or stop individuals,"[292] "[t]he STPSO's widespread constitutional abuses,"[293] "STPSO's pervasive culture of racism and prejudice against Black Americans,"[294] "STPSO-wide policy of racially-motivated targeting of Black individuals,"[295] or "STPSO's pattern of conducting frisks without consent, and/or racially-motivated traffic stops."[296]

Mr. Washington even alleges that he "has been subject to unlawful searches by the STPSO his entire life,"[297] and baselessly adds that "countless other residents of St. Tammany Parish" experienced the same.[298] Plaintiff does not provide **any** examples of his "unlawful searches," besides mentioning the traffic stop of March 13, 2021, which happened when Mr. Washington was fifty-three years old, and which has not been judicially determined to be "unlawful." Indeed, Mr. Washington's lawsuit relating to the 2021 traffic stop (*Washington I*) is pending and awaiting trial. Likewise, Mr. Washington does not provide **any** examples of other residents of St. Tammany Parish that allegedly have been subject to unlawful searches by the STPSO their entire lives.

Some of Plaintiff's claims regarding the STPSO's allegedly racially biased policies reference the "Rethnicity" package. [299] Mr. Washington describes Rethnicity as a "Bidirectional LSTM model"[300] but does not explain its methodology or reliability. Plaintiff's use of the Rethnicity prediction algorithm is vague and unsupported, relying on a footnote that does not apply the algorithm. See, R. Doc. 96, p. 44 n. 49, redirecting to note 39, which just refers to exhibit 3 – January Investigative Report, at. 10. Clearly, the Investigative Report does not apply Rethnicity. Moreover, Rethnicity is not widely recognized or validated as a reliable method for determining

[292] *Id*. at ¶10.
[293] *Id*. at ¶ 11.
[294] *Id*. at ¶12.
[295] *Id*. at ¶13.
[296] *Id*. at ¶472.
[297] *Id*. at ¶8.
[298] *Id*.
[299] See R. Doc. 96, ¶ 229.
[300] See R. Doc. 96, pg. 44 n. 47.

national origin or ethnicity, making Plaintiff's references speculative and insufficient under *Twombly* standard.

A straightforward reading of the Complaint and its exhibits reveals that, without those false, conclusory, speculative or purely inflammatory allegations, the *Monell* Claims are devoid of factual support and must be dismissed.

2. Defendants' knowledge of constitutional violation

Plaintiff builds his *Monell* claims on the allegation that "[a]ll policymakers involved in the investigation of the Incident[301] had constructive or active knowledge of STPSO deputies' custom of conducting officer safety patdowns during traffic stops without reasonable suspicion or valid and voluntary consent."[302] For instance, Mr. Washington asserts that Defendants "were deliberately indifferent to the obvious need for training related to suspicion-less and nonconsensual searches made clear after the Eastern District of Louisiana denied STPSO officer Alexander Thomas defense of qualified immunity based on the 'clearly established law of frisks'."[303]

In fact, the STPSO officer Alexander Thomas was not denied qualified immunity. A review of the relevant paragraphs of the Complaint[304] reveals that what Mr. Washington refers to as the source of Defendants' "constructive or active knowledge of STPSO deputies' custom of conducting officer safety patdowns during traffic stops without reasonable suspicion or valid and

[301] Mr. Washinton's traffic violation of January 13, 2023, and the following stop and search.
[302] See R. Doc. 96, ¶ 459.
[303] See R. Doc. 96, ¶469.
[304] "A scant three weeks before the unlawful search of Mr. Washington, STPSO and its policymakers **knew that a deputy had been denied qualified immunity for this specific conduct**." R.Doc. 96, ¶ 460. (Emphasis added.) "[…] Mr. Washington (and his cousin, Gregory Lane) brought a suit against the STPSO on March 10, 2022 for strikingly similar conduct that took place in March 2021. See Complaint, *Washington v. Smith*, No. 2:22-cv-00632 (E.D. La. Mar. 10, 2022) ("*Washington I*"). **A scant three weeks prior to the Incident, Judge Lance Africk of the Eastern District of Louisiana denied the defense of qualified immunity to the defendant officer, Alexander Thomas, for a suspicion-less and nonconsensual search of Mr. Washington under nearly-identical circumstances.** Mr. Washington hoped and expected that nine months of litigation regarding the same unconstitutional practice would have spurred STPSO—now clearly aware of the risk its officers were engaging in constitutional violations—into action to prevent similar incidents, such as training its employees as to the importance of valid consent for searches." R.Doc. 96, ¶ 19. (Emphasis added.)

voluntary consent" or "clearly established law of frisks" is nothing more than an order denying the defendants' motion for summary judgment in *Washington I*.[305] As noted above in Paragraph II (i), the motion was denied based on Judge Africk's determination that genuine issues of material facts existed as to whether the deputy engaged in conduct that violated the clearly established law of frisks.[306]

There is no doubt that an order **denying** a motion for summary judgment because of existence of genuine issue of material fact does is not a judgment that "clearly establishes law" or provides anyone with a notice of constitutional violation. Under the jurisprudence of federal courts, including the Fifth Circuit, "[c]learly established law is determined by reference to "controlling authority[,] or a robust consensus of persuasive authority."[307] Moreover, "[t]he U.S. Supreme Court has 'repeatedly told courts not to define clearly established law at a high level of generality. Rather, the dispositive question is whether the violative nature of particular conduct is clearly established.'"[308]

Since Plaintiff fails to point to a controlling authority or a robust consensus of persuasive authority that would show that "[a]ll policymakers involved in the investigation of the Incident had constructive or active knowledge of STPSO deputies' custom of conducting officer safety patdowns during traffic stops without reasonable suspicion or valid and voluntary consent" his *Monell* Claims do not meet the facial plausibility standard.

3. Policymaking authority

Plaintiffs asserts his *Monell* claims against St. Tammany Parish Sheriff Randy Smith,

[305] *Washington v. Smith*, 2022 WL 17844622, at *1 (E.D. La. 2022), *appeal dismissed sub nom. Washington v. Thomas*, 2023 WL 4704142 (5th Cir. 2023).
[306] Id. at. *5.
[307] *Jimerson v. Lewis*, 92 F.4th 277, 282 (5th Cir. 2024), citing *Delaughter v. Woodall*, 909 F.3d 130, 139 (5th Cir. 2018).
[308] *Morrow v. Meachum*, 917 F.3d 870, 872 (5th Cir. 2019).

STPSO Deputy Chief - Jeffrey Boehm, STPSO Deputy Chief of Professional Standards - George Cox, Major of Professional Standards - Richard Palmisano, Training Center Captain - Jeremy Church, Head of STPSO Internal Affairs - Dale Galloway, STPSO Internal Affairs Investigator - Frank Francois, Jr., and Internal Affairs Supervisor - Justin Parker ("Supervisory Defendants"). All those Defendants are sued both in their individual and official capacities.[309]

Mr. Washington alleges, baselessly, that the Supervisory Defendants, in their official capacities, are liable as authorized policymakers. However, this allegation fails on its face because none of the Supervisory Defendants have ever been designated in writing by the Sheriff as a policymaker. Indeed, the Complaint does not present a facially plausible claim that they have authority to make law or set policy for St. Tammany Parish.

Under the jurisprudence of the Fifth Circuit, it is clear that final policymaking authority is different form final decision-making authority.[310] A municipal policymaker is someone who has "the responsibility for making law or setting policy in any given area of a local government's business." *Id*. "Municipal liability attaches only where the decisionmaker possesses final authority to establish municipal policy with respect to the action ordered."[311] "The final policymaker is the official or body upon whom state or local law has conferred the power to adopt rules governing the conduct of the entity's employees; merely granting an employee discretionary authority [does not make the employee a final policymaker]."[312] The Fifth Circuit "has long distinguished between final decision making authority and final policymaking authority. A municipal policymaker is someone who has "the responsibility for making law or setting policy in any given area of a local

[309] As noted above in Paragraph II(iii), Plaintiff's claims against Supervisory Defendants in their official capacities are duplicative and redundant of the claims against the Sheriff.
[310] *Valle v. City of Hous.*, 613 F.3d 536, 542 (5th Cir. 2010), citing *Jett v. Dallas Indep. Sch. Dist*., 7 F.3d 1241, 1247 (5th Cir. 1993) (citing *Pembaur v. City of Cincinnati*, 475 U.S. 469, 484 n.12 (1986) and *Praprotnik*, 485 U.S. at 130).
[311] *Id.*
[312] *Lee v. Morial*, 2000 U.S. Dist. LEXIS 8307 (E.D. La. 2000) (citing *City of St. Louis v. Praprotnik*, 485 U.S. 112, 108 S.Ct. 915, 99 L.Ed.2d 107 (1988) and *Jett v. Dallas Indep. School Dist*., 7 F.3d 1241 (5th Cir.1993).

government's business."[313] "[T]he discretion to exercise a particular function does not necessarily entail final policymaking authority over that function."[314] Whether an official possesses final policymaking authority for purposes of municipal liability is a question of state and local law.[315]

Under Louisiana Law, Sheriff Smith is the final policymaker within St. Tammany Parish.[316] This Court, as recently as 2022, reiterated the fact that "Sheriff Smith is the final policymaker under Louisiana law within St. Tammany Parish."[317] Indeed, this same fact was also noted by this Court in 2019, holding that "Sheriff Smith is the policymaker for the STPSO."[318] This Court also noted the same in 2016, holding that Sheriff Strain, Sheriff Smith's predecessor, was the policymaker for the STPSO.[319] In holding that Sheriff Strain was the policymaker for the STPSO, this Court dismissed the plaintiff's official capacity claims against Dy. Plaisance, Cpl. Vargo, Cpl. Bailey, Dy. Sedowski, Dy. Booth, and Dy. Thurman, with prejudice, due to the fact that they were not the policymakers for the STPSO.

Defendants further note that in *Washington I*, Plaintiff previously asserted a *Monell* claim against Sheriff Smith as the policymaker of the STPSO.[320] Indeed, Plaintiff's Complaint in that matter, which is currently set for trial in 2025 before the Honorable Judge Long, specifically (and correctly) alleged that Sheriff Smith is the policymaker of the STPSO.[321] In the current matter, Plaintiff attempts to expand his claims of policymaking authority to numerous other Defendants, despite having full knowledge that these individuals **have no such policymaking authority**,

[313] *Valle v. City of Hous*., 613 F.3d 536, 542 (5th Cir. 2010) (Internal citations omitted.)
[314] *Id.*
[315] *Id*.
[316] *Rogers v. Smith*, 603 F. Supp. 3d 295 (E.D. La. 2022). See also *Jones v. St. Tammany Parish Jail*, 4 F.Supp.2d 606, 614 (E.D.La.1998), ("The Sheriff in his official capacity is the appropriate governmental entity responsible for any constitutional violations committed by his office."); See also La. Const. art. 5, § 27 ("[The sheriff] shall be the chief law enforcement officer in the parish.").
[317] *Rogers v. Smith*, 603 F. Supp. 3d 295 (E.D. La. 2022).
[318] *Lewis v. Smith*, 2019 WL 3536343 (E.D. La. 2019).
[319] *Casto v. Plaisance*, 2016 WL 2855468 (E.D. La. 2016).
[320] See *Washington v. Smith*, 639 F. Supp. 3d 625 (E.D. La. 2022).
[321] See Civil Action No. 22-632, R. Doc. 29, ¶¶ 9 & 230.

especially considering the fact that Plaintiff is aware that **Sheriff Smith is the policymaker of the STPSO**, having asserted so just less than two (2) years ago.[322]

Despite being **fully aware** that Sheriff Smith is the policymaker for the STPSO, Plaintiff **falsely asserts** that the Sheriff has delegated policymaking authority to several Defendants. In support of this false assertion, Plaintiff **purposefully misquotes** the exhibits he has attached to his SAC. For example, Plaintiff asserts that Sheriff Smith has designated, in writing, policymaking authority on Chief Deputy Boehm.[323] However, the exhibit Plaintiff relies on in support of this allegation clearly indicates that "The Agency operates under the direct supervision of the Sheriff".[324] Defendants aver that this statement within the STPSO policies and procedures manual, alone, clearly indicates that the Sheriff is the **final policymaker** for the STPSO, as any policy making decision he makes is clearly unreviewable by any other official or governmental body in the parish. See *Brady v. Fort Bend County*, 145 F.3d 691, 700 (5th Cir.1998) (holding that the sheriff was the final policymaker when his exercise of discretion was "unreviewable by any other official or governmental body in the county.")

Defendants note that Plaintiff attempts to purposefully mislead the Court by misconstruing the language in this exhibit, which specifically refers to the **order of succession in the chain of command should the Sheriff become incapacitated**, to assert that the Sheriff has designated policymaking authority on Chief Deputy Boehm.[325]

---

[322] Defendants note that Plaintiff's actions are clearly nothing more than pure gamesmanship, an effort to throw as many claims as possible against as many Defendants as possible, in the hopes of keeping as many Defendants as possible in this case. This is clearly demonstrated by Plaintiff's use of the organizational chart (R. Doc. 96-2), to identify potential Defendants based simply on whether or not they are alleged "supervisors" of other Defendants, not based on any actual knowledge of any actions/inactions allegedly taken by these potential Defendants.
[323] See R. Doc. 96, ¶ 41.
[324] See R. Doc. 96-1, pg. 1.
[325] *Id*.

B. The Agency operates under the direct supervision of the Sheriff. The Sheriff shall designate in writing a second in command. The second in command is the Chief Deputy.

In the event the Sheriff is incapacitated, and unable to serve, or a vacancy occurs in the office of the Sheriff, the Chief Deputy shall assume the responsibility of the command of the STPSO in accordance with law.

C. If the Chief Deputy is incapacitated and unable to fulfill the command position as (Acting Sheriff) the chain of command will be in this order:

Third: Deputy Chief of Enforcement

Fourth: Deputy Chief of Operations

Fifth: Deputy Chief of Administration

Sixth: Deputy Chief of Corrections

Seventh: Deputy Chief of Professional Standards [326]

As clearly provided above, the exhibit which Plaintiff purposefully misconstrues, and which clearly indicates that the agency operates under the direct supervision of the Sheriff, relates specifically to a situation in which the Sheriff becomes incapacitated. The purpose of the phrase "The Sheriff shall designate in writing a second in command," is specifically related to, and necessitated for purposes of this succession in the chain of command, **not** for purposes of designating any individual with final policy-making authority. Indeed, had the intent been to designate the Chief Deputy with final policy-making authority it would have provided so. Defendants further note that Plaintiff's allegations regarding the job description and responsibilities of the Chief Deputy also fail to indicate that he has been granted, in writing, **any policymaking authority**. Instead of pointing to any specific indication of written policymaking authority being provided to the Chief Deputy, Plaintiff attempts to construe routine job functions and discretionary authority of the Chief Deputy as evidence of policymaking authority. However, as noted above, the Fifth Circuit, has consistently held that "merely granting an official

[326] *Id*.

discretionary authority [does not make the employee a final policymaker]."[327] Accordingly, there is **no evidence** that Chief Deputy Boehm has been designated, in writing, with policymaking authority.

Plaintiff, citing to the STPSO 2023 Budget Book (R. Doc. 96-3), alleges that Defendants, Galloway and Francois "have delegated policymaking authority from Sheriff Smith and the duty to '[d]etect, thoroughly investigate and properly address any misconduct by agency personnel to ensure the integrity of the agency and its mission,' and 'present[] recommendations for corrective measures to the sheriff.'"[328] A review of the section Plaintiff misquotes, specifically provides **no mention of any such policymaking authority** being delegated to Defendant, Francois, or any other STPSO official in the Public Integrity Bureau.[329] To the contrary, the section that Plaintiff has misquoted is nothing more than an explanation of the function of the Public Integrity Bureau.[330] Most importantly, the paragraph Plaintiff has quoted conveniently fails to include the last and most important sentence, which clearly indicates that Sheriff Smith has final policymaking/decision-making authority, specifically providing that "Final disposition of all investigations and recommended actions are presented to the sheriff".[331]

> The public rightfully expects efficient and impartial law enforcement. Therefore, any misconduct by agency personnel must be detected, thoroughly investigated and properly addressed to ensure the integrity of the agency and its mission. The Sheriff's Office and its employees also must be protected against false accusations of misconduct. This requires a thorough investigative process through which all facts are considered. Personnel who engage in serious acts of misconduct or who have demonstrated they are unfit for law enforcement duty must be identified. Final disposition of all investigations and recommended actions are presented to the sheriff. [332]

As clearly provided above, there is no indication that Defendants, Galloway or Francois,

---

[327] *Lee v. Morial*, 2000 U.S. Dist. LEXIS 8307 (E.D. La. 2000) (citing *City of St. Louis v. Praprotnik*, 485 U.S. 112, 108 S.Ct. 915, 99 L.Ed.2d 107 (1988) and *Jett v. Dallas Indep. School Dist*., 7 F.3d 1241 (5th Cir.1993).
[328] See R. Doc. 96, ¶¶ 44 – 45, 220, 226.
[329] See R. Doc. 96-3, pg. 260.
[330] *Id*.
[331] *Id*.
[332] *Id*.

or any other Defendant, have ever been delegated, in writing, any policymaking authority, and the exhibit Plaintiff has attached in support of this false allegation clearly contradicts Plaintiff's own allegation.

Indeed, the Fifth Circuit has consistently held that the ability of an official, such as Galloway or Francois, to make a recommendation to the Sheriff does **not** confer final policymaking or decision-making on such officials, especially considering the fact these are merely recommendations, which the Sheriff is **free to reject**. See *Barrow v. Greenville Independent School District*, 480 F.3d 377, 381–82 (5th Cir.2007) (holding that a school superintendent, who had the "sole authority" to make personnel recommendations to the school board, was not a final policymaker when the board could reject those recommendations, even though it had statutory power to delegate final authority over personnel decisions to the superintendent); *Beattie v. Madison County School District*, 254 F.3d 595, 603 (5th Cir.2001) (holding that a superintendent was not a final policymaker when she merely presented her recommendation of an employee's termination to the board, which effected the actual termination); *Worsham v. City of Pasadena*, 881 F.2d 1336, 1337, 1340–41 (5th Cir.1989) (holding that the mayor was not a final policymaker for purposes of Monell liability, as "[M]eaningful review by the City Council indicates that the [mayor]...w[as] not...[a] final policymaker[ ]"). Accordingly, the law and facts are clear in that Defendants, Galloway and Francois, are **not** final policymakers.

Defendants further note that Plaintiff's allegation that Defendant, Church, has been delegated policymaking authority is also completely unsupported by the exhibit Plaintiff has cited.[333] A review of the exhibit Plaintiff cites to in support of this allegation provides no such indication that Church, or any other Defendant, has been designated, in writing, with policymaking

[333] See R. Doc. 96, ¶ 236.

authority. To the contrary, the exhibit which Plaintiff cites to is nothing more than a general overview of the Training Division Captain responsibilities:

> The Training Division Captain shall be responsible for:
>
> A. Keeping apprised of training resources and scheduling training to meet the requirements for law enforcement personnel as set forth by the Louisiana Peace Officer Standards and Training Council, applicable law, and Agency policy;
>
> B. Using national, state, and local resources in developing and providing staff training;
>
> C. Developing and maintaining an in-service, in-house training program to address specific needs of the Agency and to ensure those skills requiring qualification and re-qualification are kept current;
>
> D. Ensuring that training records stay current, complete and accurate,
>
> E. Providing a general orientation to all new sworn personnel prior to duty assignment; and
>
> F. Selection of appropriate personnel for Louisiana Peace Officer Training Council (POST) Instructor Development Course. [334]

As clearly provided above, the above general overview of the responsibilities of the Training Division Captain contains **no indication or discussion** regarding any delegation of policymaking authority.[335] Indeed, to the extent that the above could possibly be construed to give any decision-making authority to Defendant, Church, Defendants again note that "merely granting an official discretionary authority [does not make the employee a final policymaker]."[336] Accordingly, none of Plaintiff's allegations point to policymaking authority of Defendants Boehm, Cox, Galloway, Francois, Parker, and Church, but instead lay out their discretionary/decision-making authority. Accordingly, all *Monell* claims against Supervisor Defendants in their official capacities must be dismissed.

---

[334] See R. Doc. 96-1, pg. 11.
[335] *Id*.
[336] *Lee v. Morial*, 2000 U.S. Dist. LEXIS 8307 (E.D. La. 2000) (citing *City of St. Louis v. Praprotnik*, 485 U.S. 112, 108 S.Ct. 915, 99 L.Ed.2d 107 (1988) and *Jett v. Dallas Indep. School Dist*., 7 F.3d 1241 (5th Cir.1993).

xi. The fifth cause of action must be for failure to state a claim

Plaintiff asserts a claim for Ratification of a Subordinate's Unlawful Act. Under the law, the "'ratification' can act as one theory of proving *Monell* liability."[337] "That is, […] the Supreme Court provided that if 'authorized policymakers approve a subordinate's decision and the basis for it, their ratification would be chargeable to the municipality because their decision is final.'[338] "The theory of ratification, however, has been limited to '**extreme factual situations**.'"[339]

The Fifth Circuit's jurisprudence provides guidance on what types of situations may qualify as the extreme circumstances justifying *Monell* liability: "Ratification" was found in case in which officers "poured" gunfire onto a truck and killed innocent occupant,[340] but not in a case in which an officer shot fleeing suspect in the back.[341] Moreover, the Fifth Circuit has also explained that "a policymaker who defends conduct that is later shown to be unlawful does not necessarily incur liability on behalf of the municipality."[342]

Under this law, Mr. Washington fails to plead ratification liability. Indeed, even assuming Plaintiff's allegations as to his damage sustained during the traffic stops as true, the factual circumstances the events of January and October 2023 are far from extreme.

xii. The sixth cause of action must be dismissed for failure to state a claim

Plaintiff asserts a claim for alleged De Facto Policy. Under the law of the Fifth Circuit, "[A] policy or custom is official only 'when it results from the decision or acquiescence of the

[337] *Matthews v. City of West Point*, 863 F. Supp. 2d 572 (N.D. Ms. 2012).
[338] *Id*., citing in *City of St. Louis v. Praprotnik*, 485 U.S. 112, 108, 127, S. Ct. 915, 99 L. Ed. 2d 107 (1988),
[339] *Id*., *citing Peterson v. City of Fort Worth, Tex.*, 588 F.3d 838, 848 (5th Cir. 2009); *Coon v. Ledbetter*, 780 F.2d 1158, 1161 (5th Cir. 1986), see also Snyder v. Trepagnier, 142 F.3d 791, 798 (5th Cir. 1998).
[340] *Grandstaff v. City of Borger*, 767 F.2d 161 (5th Cir. 1985).
[341] *Snyder v. Trepagnier*, 142 F.3d 791, 798 (5th Cir. 1998)
[342] *Peterson v. City of Fort Worth*, 588 F.3d 838, 848 (5th Cir. 2009), citing *Coon v. Ledbetter*, 780 F.2d 1158, 1161-62 (5th Cir. 1986) (precedent "does not stand for the broad proposition that if a policymaker defends his subordinates and if those subordinates are later found to have broken the law, then the illegal behavior can be assumed to have resulted from an official policy").

municipal officer or body with 'final policymaking authority' over the subject matter of the offending policy.' Thus, a plaintiff must show the policy was promulgated by the municipality's policymaker. There is no 'de facto' final policymaking authority."[343]

Here, Plaintiff alleges that "In conformity to the STPSO's de facto policy of not obtaining valid consent prior to searches, Defendants Cloud, Lewis, and Finn searched Mr. Washington without valid consent. This policy was the moving force behind the violation of Mr. Washington's Fourth Amendment rights."[344] However, under the jurisprudence of the Fifth Circuit, an allegation of "de facto policy" does not warrant *Monell* liability. Accordingly, the sixth cause of action must be dismissed.

xiii. The seventh and eighth causes of action must be dismissed for failure to state a claim

Plaintiff asserts a claim for Failure to Train and a claim for Single Decision by a Final Policymaker. Under the law, a *Monell* claim may be based on a municipality's alleged failure to train, supervise, or discipline employees.[345] But to state such a claim, a plaintiff must allege all following elements: "(1) that the municipality's training, supervisory, or disciplinary polices or practices were inadequate, (2) that the municipality was deliberately indifferent in adopting this deficient policy, and (3) that the inadequate training, supervisory, or disciplinary policy directly caused the violations in question."[346] The Fifth Circuit recently emphasized the requirements for pleading Monell liability. In *Armstrong v. Ashley*, the Fifth Circuit affirmed dismissal where the plaintiff "pled custom or practice and pattern in a conclusory fashion without meaningful factual

[343] *Peterson v. City of Fort Worth*, 588 F.3d 838, 847-48 (5th Cir. 2009), citing *Jett v. Dallas Indep. Sch. Dist*., 491 U.S. 701, 737, 109 S. Ct. 2702, 105 L. Ed. 2d 598 (1989), *Gros v. City of Grand Prairie, Tex*., 181 F.3d 613, 616 n.2 (5th Cir. 1999) (quoting *City of St. Louis v. Praprotnik*, 485 U.S. 112, 131, 108 S. Ct. 915, 99 L. Ed. 2d 107 (1988)).
[344] See R. Doc. 96, ¶462.
[345] *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 623 (5th Cir. 1978).
[346] *Hankins v. Wheeler*, 2022 U.S. Dist. LEXIS 109198 (E.D. La. 2022) (citing *Ratliff v. Aransas Cnty., Tex.*, 948 F.3d 281, 285 (5th Cir. 2020)).

content."[347] Similarly, in *Vardeman v. City of Houston*, the Fifth Circuit affirmed dismissal where the complaint contained "a hodge-podge of unrelated incidents" in support of a custom, did not establish a pattern or practice of the specific constitutional violation, did not establish causation, and did not establish deliberate indifference on behalf of the City.[348] In *Grice v. Younger*, the Fifth Circuit recently affirmed the dismissal of municipal liability claims, holding that, "We ascertain no constitutional violation for Grice's rote recitation of the municipal liability elements in the absence of specific facts indicating culpability and causation."[349]

As to the first element, Mr. Washington's claims for failure to train, monitor, discipline, and take necessary corrective action[350] fail because "in order for 'liability to attach based on an "inadequate training" claim, a plaintiff must allege with specificity how a particular training program is defective.'"[351] Conclusory allegations do not suffice, as "[t]he fact that an officer could be 'unsatisfactorily trained' is not enough to trigger the municipality's liability."[352] That is because the unconstitutional actions of officers—none of whom had final policymaking authority—cannot "alone suffice to fasten liability on the city, for the officer[s'] shortcomings may have resulted from factors other than a faulty training program."[353] The United States Supreme Court has specifically held that "[S]howing merely that additional training would have been helpful in making difficult decisions does not establish municipal liability."[354] Here, Plaintiff has failed to

[347] *Armstrong v. Ashley*, 60 F.4th 262, 276-77 (5th Cir. 2023).
[348] *Vardeman v. City of Houston*, 55 F.4th 1045, 1052-53 (5th Cir. 2022)
[349] *Grice v. Younger*, 2023 WL 2401584, *4 (5th Cir. 2023).
[350] See R. Doc. 96, ¶¶ 465, 479.
[351] *Zarnow v. City of Wichita Falls, Tex.*, 614 F.3d 161, 170 (5th Cir. 2010) (quoting *Roberts v. City of Shreveport*, 397 F.3d 287, 293 (5th Cir. 2005); See also *Westfall v. Luna*, 903 F.3d 534, 552 (5th Cir. 2018) (Plaintiff "must allege with specificity how a particular training program is defective.").
[352] *McCullough v. Wright*, 824 F. App'x 281, 288 (5th Cir. 2020) (citing *City of Canton v. Harris*, 489 U.S. 378, 390–91 (1989)).
[353] *Harris*, 489 U.S. at 390–91; *Connick*, 563 U.S. at 68 (holding that "proving that an injury or accident could have been avoided if an [employee] had better or more training sufficient to equip him to avoid the particular injury-causing conduct will not suffice" to impose Monell liability).
[354] *Connick v. Thompson*, 563 U.S. 51, 131 (2011).

specifically allege how the STPSO's training or supervisory policies under Sheriff Smith were inadequate. Instead, Plaintiff's allegations consist of nothing more than threadbare recitals of his causes of action supported by mere conclusory statements, which do not suffice.[355]

As to the second element, **deliberate indifference requires at least a pattern of similar incidents in which the citizens were injured**.[356] "Proof of more than a single instance of the lack of training or supervision causing a violation of constitutional rights is normally required before such lack of training or supervision constitutes deliberate indifference."[357] A pattern is tantamount to official policy when it is "so common and well-settled as to constitute a custom that fairly represents municipal policy."[358] Where prior incidents are used to prove a pattern, they "must have occurred for so long or so frequently that the course of conduct warrants the attribution to the governing body of knowledge that the objectionable conduct is the expected, accepted practice of city employees."[359] It is thus clear that a plaintiff must demonstrate "a pattern of abuses that transcends the error made in a single case."[360] A **pattern requires similarity and specificity**; "[p]rior indications cannot simply be for any and all 'bad' or unwise acts, but rather must point to the specific violation in question."[361]

A pattern also requires "sufficiently numerous prior incidents," as opposed to "isolated instances."[362] In *Pineda v. City of Houston*, the Fifth Circuit held that eleven (11) incidents of

---

[355] *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citation omitted); see *G.M. v. Shelton*, 595 Fed. Appx. 262, 265 (5th Cir. 2014) (conclusory statements of *Monell* liability are insufficient); *Spiller v. City of Tex. City, Police Dep't*, 130 F. 3d 162, 167 (5th Cir. 1997) (description of policy or custom and its connection to violation cannot be conclusory); *City of Crowe v. Leblanc*, 2011 U.S. Dist LEXIS 34143, p. 11 (E.D. La. 2011) (general allegations regarding failure to train or moving force theories insufficient), opinion adopted at 2011 U.S. Dist LEXIS 34124 (E.D. La. 2011).
[356] *Estate of Davis ex rel. McCully v. City of North Richmond Hills*, 406 F.3d 375, 383, 386 (5th Cir. 2005).
[357] *Livezey v. City of Malakoff*, 657 F. App'x 274, 278 (5th Cir. 2016).
[358] *Piotrowski v. City of Houston*, 237 F.3d 567 (5th Cir. 2001) (quoting *Webster v. City of Houston*, 735 F.2d 838, 841 (5th Cir. 1984)
[359] *Webster*, 735 F.2d at 842.
[360] *Piotrowski*, 237 F.3d at 582 (citations omitted).
[361] *Estate of Davis ex rel. McCully v. City of North Richland Hills*, 406 F.3d 375, 383 (5th Cir. 2005).
[362] *McConney v. City of Houston*, 863 F.2d 1180, 1184 (5th Cir. 1989).

warrantless entry did not support a pattern of unconstitutional warrantless entry.[363] In each of those eleven (11) incidents, officers reported either consent or exigent circumstances.[364] The Fifth Circuit observed that "[e]leven incidents each ultimately offering equivocal evidence of compliance with the Fourth Amendment cannot support a pattern of illegality in one of the Nation's largest cities and police forces."[365]

In *Peterson v. City of Fort Worth*, the Fifth Circuit affirmed the district court's ruling holding that the twenty-seven (27) complaints on which the plaintiff relied were insufficient to establish a pattern of excessive force.[366]

In *Zavala v. Harris Cty., Tex.*, the plaintiff pled other alleged instances of misconduct.[367] The Fifth Circuit held that these were not enough, as they were not similar to the facts of her case.[368] In *Sligh v. City of Conroe, Tex.*, the Fifth Circuit again affirmed the dismissal of a failure to train theory where the plaintiff "rests the entirety of her conclusory argument on the single present incident and pleads no pattern of prior incidents sufficient to place the City of Conroe on actual or constructive notice that a particular omission in their training program causes city employees to violate citizens' constitutional rights."[369]

In this case, Mr. Washington has failed to specifically allege and/or describe any other similar incidents or pattern of incidents involving "suspicion-less and nonconsensual searches"[370] by the STPSO. Plaintiff has provided no factual allegations or evidence of any other analogous incidents involving other similarly situated persons than him, how those situations relate to him in

[363] *Pineda v. City of Houston*, 291 F.3d 325 (5th Cir. 2002).
[364] *Id.* at 329 n.12.
[365] *Id*. at 329.
[366] *Peterson v. City of Fort Worth*, 588 F.3d 838 (5th Cir. 2009).
[367] *Zavala v. Harris Cty., Tex.*, 2023 WL 9058711 (5th Cir. 2023).
[368] *Id*. (dismissing failure to train theory for failure to allege specific facts).
[369] *Sligh v. City of Conroe, Tex.*, 2023 WL 8074256, *7 (5th Cir. 2023).
[370] See R. Doc. 96, ¶ 469.

this action, the content of the Sheriff's alleged policy or custom, or how the Sheriff acted with deliberate indifference in this or other scenarios.[371] Indeed, in this respect, the United States Supreme Court has been clear that, on a motion to dismiss, a court must not accept legal conclusions as true.[372] "Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice."[373]

Accordingly, Mr. Washinton has failed to allege and/or establish a pattern of similar incidents in which other individuals were injured. Instead, Plaintiff has based his entire claim of failure to train, monitor, discipline, and take necessary corrective action on three traffic stops involving him, relying on the theory of a Single Decision by a Final Policymaker.

However, for Plaintiff's claim of Single Decision by a Final Policymaker to succeed, Mr. Washington would need to show that it falls under the **extremely narrow single-incident exception**. Indeed, under the law, in the absence of a pattern of similar violations, a plaintiff may sometimes "establish deliberate indifference through the single-incident exception."[374] But to fit within this "extremely narrow" exception, the plaintiff must show "that the highly predictable consequence of a failure to train would result in the specific injury suffered."[375] "An injury is 'highly predictable' where the municipality 'fail[s] to train its employees concerning a clear constitutional duty implicated in recurrent situations that a particular employee is certain to face.'"[376] In the context of failure to train, "[t]he single-incident exception 'is generally reserved

[371] *Webster v. Houston*, 735 F.2d 838, 842 (5th Cir. 1984) (a *Monell* custom requires long and frequent course of conduct).
[372] *Ashcroft v. Iqbal*, 556 U.S. 662, 678, (2009) ("First, the tenet that a court must accept as true all of the allegations contained in a complaint is inapplicable to legal conclusions.)
[373] *Id.*; see also *G.M. v. Shelton*, 595 Fed. Appx. 262, 265 (5th Cir. 2014) (conclusory statements of *Monell* liability are insufficient); *Spiller v. City of Tex. City, Police Dep't*, 130 F. 3d 162, 167 (5th Cir. 1997) (description of policy or custom and its connection to violation cannot be conclusory); *City of Crowe v. Leblanc*, 2011 U.S. Dist LEXIS 34143, p. 11 (E.D. La. 2011) (general allegations regarding failure to train or moving force theories insufficient), opinion adopted at 2011 U.S. Dist LEXIS 34124 (E.D. La. 2011).
[374] *Hutcheson v. Dallas Cnty., Tex.*, 994 F.3d 477, 482 (5th Cir. 2021).
[375] *Valle v. City of Houston*, 613 F.3d 536 (5th Cir. 2010).
[376] *Hankins v. Wheeler*, 2022 U.S. Dist. LEXIS 109198 (E.D. La. 2022) (quoting *Hutcheson*, 994 F.3d at 482-83).

for those cases in which the government actor was provided no training whatsoever.'"[377] In the context of failure to supervise, a plaintiff must show that "it must have been obvious that the highly predictable consequence of not supervising [the employees] was that they would" commit the specific constitutional violation alleged.[378]

Here, Mr. Washington has failed to allege and/or establish a pattern of similar incidents and has failed to allege that his claim falls within the extremely narrow single-incident exception. Accordingly, his causes of action seventh and eight causes of action must be dismissed.

xiv. The tenth cause of action must be dismissed for failure to state a claim

Plaintiff's Tenth cause of action for Racist Policing Practices fails on all elements required for a *Monell* claim. As noted above in Paragraph II (x)(1), Mr. Washington did not plead sufficient facts to establish an official policy or custom of "racist policing practices" that a St. Tammany Parish policymaker could be charged with actual or constructive knowledge of, nor did he demonstrate that such practices were the "moving force" behind his alleged constitutional violations. Indeed, Mr. Washington's allegations remain speculative and do not rise above the level of conjecture.

xv. The ninth cause of action must be dismissed

Plaintiff asserts a claim for Title VI of the Civil Rights Act of 1964 Against Sheriff Smith and the Supervisor Defendants.

Title VI of the Civil Rights Act provides in pertinent part that "[n]o person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving

[377] *Hutcheson*, 994 F.3d at 483 (quoting *Peña*, 879 F.3d at 624), *Washington*, 639 F. Supp. 3d at 653, citing *Valle*, 613 F.3d at 549.
[378] *Peterson v. City of Fort Worth, Tex.*, 588 F.3d 838, 850 (5th Cir. 2009).

Federal financial assistance."[379] A cause of action under Title VI necessitates "(1) that the defendant have received federal financial assistance the primary objective of which is to provide employment (2) that was applied by the defendant to discriminatory programs or activities."[380] In this case, the Complaint does not contain the foregoing factual allegations sufficiently establishing the existence of any discriminatory programs or activities.

Moreover, to assert a Title VI claim, "A party must not only allege and prove that the challenged conduct had a differential or disparate impact upon persons of different races, but also assert and prove that the governmental actor, in adopting or employing the challenged practices or undertaking the challenged action, intended to treat similarly situated persons differently on the basis of race."[381] A private right of action under Title VI requires intentional discrimination by the defendants.[382] Accordingly, to succeed on a Title VI claim against Defendants, Plaintiff must show that the Defendants intentionally discriminated against him because of his race.[383]

1. Plaintiff has failed to state a Tile VI claim

First and foremost, Plaintiff's Title VI claim is no different than it was in *Washington I*, where it was dismissed by this Court with prejudice. As in *Washington I*, Plaintiff **fails** to allege that similarly situated persons were treated differently than Plaintiff on the basis of race, color, or national origin. Instead, just as he did in *Washington I*, Plaintiff relies on the **exact same** instances of past conduct that occurred during the previous Sheriff's administration. These instances include statements allegedly made in 2006 by former Sheriff Strain, and emails exchanged amongst former STPSO employees in 2014.[384] As this Court previously noted in dismissing Plaintiff's Title VI

[379] 42 U.S.C. § 2000(d).
[380] 42 U.S.C. § 2000d-3; See also *Alexander v. Newellton Elem. Sch.*, 2008 U.S. Dist. LEXIS 110897 (W.D. La. 2008).
[381] *Castaneda v. Pickard*, 648 F.2d 989, 1000 (5th Cir. 1981).
[382] *Scokin v. State of Tex.*, 723 F.2d 432, 441 (5th Cir. 1984).
[383] *Alexander v. Sandoval*, 532 U.S. 275, 280-81 (2001).
[384] Former STPSO employee, Capt. Robert Juge Jr., author of the emails mentioned in Plaintiffs' complaint, was not retained by Sheriff Smith upon his taking office in 2016, and in response, Mr. Juge filed suit against Sheriff Smith for

claim in *Washington I*, such incidents of alleged past conduct occurring prior to the administration of Sheriff Randy Smith, which began on July 1, 2016, are neither relevant, nor sufficient, to sustain a proper Title VI claim. Specifically, this Court noted that Mr. Washington's allegations were insufficient to state a Title VI claim, holding that:

> …plaintiffs attempt to bring a Title VI claim against Smith on the basis of incidents that occurred during his predecessor's tenure. Moreover, in *Finch*, the Fifth Circuit declined to "constru[e] the complaint to allege by implication that the challenged activities were a matter of state policies," where "the only specific incidents mentioned in the complaint involved members of the outgoing administration." *Finch*, 638 F.2d at 1346. Only a single incident alleged in the complaint in support of plaintiffs' Title VI claim took place during Smith's tenure: the complaint against an STPSO captain for using a racial slur. *Id*. ¶ 269. Plaintiffs themselves acknowledge that that captain no longer works for STPSO. *Id*. Even setting aside these issues, the Court concludes that plaintiffs have failed to state a Title VI claim, as they have not adequately alleged that Smith knew about the incidents referenced in the complaint. *Doan*, 2017 U.S. Dist. LEXIS 180990, 2017 WL 4960266, at *2; *Bhombal*, 809 F. App'x at 237. The only portion of the complaint that attempts to connect Smith to the incidents supporting the Title VI claim states that "[u]pon information and belief, employees of the STPSO have been made aware that STPSO deputies are engaging in racial profiling but have refused to take corrective action." *Id.* ¶ 270. Even viewing the complaint in the light most favorable to the plaintiffs, this conclusory allegation cannot support an inference that Smith knew about intentional racial discrimination, but nevertheless chose not to act. Accordingly, the Court concludes that plaintiffs have failed to state a claim for relief pursuant to Title VI.[385]

Second, to state his Title VI clam, Mr. Washinton does not rely on **facts** but on unverifiable predictions. Indeed, Plaintiff alleges statistical disparities between the rates of traffic stops between African American and White individuals in St. Tammany Parish using a program allegedly called "The Rethnicity package," which supposedly "predict[s] race from an individual's first and last name."[386] Defendants aver that the use of a computer program to "predict" an individual's race on

discrimination. See Moore et. al. v. Smith, 2:17-cv-05219-CJB-JCW. This suit was subsequently settled by the insurer for the STPSO despite Sheriff Smith's opposition.

[385] *Washington v. Smith*, 639 F. Supp. 3d 625, 656 – 658 (E.D. La. 2022).

[386] See R. Doc. 96, Complaint, pg. 44, footnote 45.

the basis of their first and last name is not only unreliable and insufficient to establish a Title VI claim, but appears, in and of itself, to be a technique that if used in any other regard, such as by the STPSO, would undoubtedly be deemed **racist**. Defendants further note that this program does not even come close to establishing the existence of a policy of intentional racial discrimination. As courts have held, statistical evidence is rarely sufficient to demonstrate a discriminatory purpose.[387] "This is [so] because, to prevail on an equal protection claim, a plaintiff must prove that the decisionmakers in his case acted with discriminatory purpose."[388]

Third, Plaintiff baselessly cites *Perkins v. Hart* in an attempt to support the wholly unsubstantiated and egregious claim that Defendants have been made aware of and failed to take corrective action regarding alleged racial profiling within STPSO.[389] Plaintiff's citation to *Perkins* blatantly and intentionally misrepresents to the Court that *Perkins* involved similar allegations (which it did not) in order to garnish some semblance of credibility for this claim. Indeed, the only racial element in the *Perkins* matter was the plaintiff, Teliah Perkins', own belief that her neighbors initiated the incident at issue by calling the police on her because of her race. The *Perkins* matter even contained video evidence, in which Ms. Perkins is heard shouting "they racist" while pointing at her neighbors across the street as the incident escalated. Indeed, the plaintiffs in *Perkins* neither asserted, nor brought forward any race-related claims whatsoever against the STPSO defendants, including such claims as Title VI, racial discrimination, racial profiling or discriminatory policing.[390]

Defendants further note that in *Perkins*, the Fifth Circuit on appeal **dismissed all of plaintiffs' claims with prejudice**, with the exception of D.J.'s single claim for interference with

[387] *Blackwell v. Strain*, 496 F. App'x 836, 840 (10th Cir. 2012).
[388] *Id*.
[389] See R. Doc. 96, ¶ 493.
[390] *Perkins v. Hart*, 2023 U.S. App. LEXIS 31734 (5th Cir. 2023).

his first amendment rights,[391] which was later dismissed after conclusion of trial.[392] Therefore, following trial in *Perkins*, **all claims of the plaintiffs for constitutional violations were dismissed with prejudice**, and **no constitutional violations were found**. Accordingly, Plaintiff's allegation that Defendants, Smith, Cox Church, Galloway and Francois, were put on notice by the *Perkins* case of concerns that STPSO employees are engaging in racial profiling is without merit, as Plaintiffs in that matter brought forward **no race-related claims**. Furthermore, Mr. Washington's allegation that after the *Perkins* matter, Defendants, Smith, Cox and Church failed to develop and implement policies and practices to protect against and hold deputies accountable for discriminatory policing and constitutional violations is also without merit, as the issue of race was unrelated to any of the claims brought forth by the plaintiffs in *Perkins*.

In sum, there were no race-related claims against the STPSO defendants present in the *Perkins* matter – as no such action existed – and Plaintiff's desperate attempt here to conflate his claims using fabricated support is egregious and should be admonished.

Defendants note that the Complaint contains no other factual allegations demonstrating intentional discrimination by Defendants against Plaintiff. Further, Plaintiff has failed to allege that he was treated differently than similarly situated White individuals under similar circumstances. Indeed, Plaintiff has failed to provide any examples and/or cases wherein racial discrimination/discriminatory policies have been implemented by the STPSO against African American individuals, while not being used against White individuals. Instead, Plaintiff relies only on past incidents from news articles involving the previous Sheriff's administration taking place

[391] *Id*.

[392] See Case 2:21-cv-00879-WBV-DPC, Final Judgment (R. Doc. No. 132). Defendants note that on June 14, 2024, the defendant filed his Notice of Appeal of the Final Judgment award (R. Doc. No. 139), due to the fact that the jury erroneously upheld the plaintiff's state law claim for intentional infliction of emotional distress, while dismissing the plaintiff's single constitutional claim for violation of first amendment rights, which was based on the same exact conduct. Defendants are very confident that the Fifth Circuit will properly resolve this discrepancy and dispose of plaintiff's lone state law claim.

as far back as ten (10) to eighteen (18) years ago, as well as a computer program that attempts to identify the race of an individual based on his or her name. Such 'evidence' is grossly insufficient to establish a valid Title VI claim. Accordingly, Plaintiff has failed to plead a valid Title VI claim, as Plaintiff has failed to allege factual allegations establishing both (1) the existence of any discriminatory programs or activities, and (2) that Defendants adopted such programs or activities with the intent to discriminate against Plaintiff on the basis of his race.

Moreover, as noted above in Paragraph II (v), Plaintiff has **improperly group his Title VI claim against the Defendants**, and has therefore **failed** to properly allege the individual conduct engaged in by each individual Defendant. Accordingly, Plaintiff has **failed** to properly allege that Sheriff Smith, George Cox, Dale Galloway, Frank Francois, Jeremy Church, Justin Parker or Jeffrey Boehm had actual knowledge that the STPSO was allegedly engaging in racial profiling,[393] or that either of these individual Defendants engaged in or implemented racial profiling policies. For these reasons, Plaintiff's Title VI claim should be dismissed with prejudice

Defendants further note that Plaintiff's claims that Defendants, Cox, Ripoll and Church, failed to develop and implement policies and practices with regard to discriminatory policing is without merit. As noted above in Paragraph II (x)(3), "the discretion to exercise a particular function does not necessarily entail final policymaking authority over that function."[394] Defendants, Boehm, Cox, Ripoll, Galloway, Francois, Parker and Church, have **no policymaking authority** for the simple fact that they are **not final policymakers**. Instead, as this Court has previously held, Sheriff Smith is the **final policy maker for St. Tammany Parish**. Therefore, all Title VI claims against Defendants, Boehm, Cox, Ripoll, Galloway, Francois, Parker and Church,

[393] Defendants again note that Plaintiff has **completely misrepresented** the *Perkins* matter, which contained **no race-related claims** and has resulted in **no constitutional violations**.
[394] *Valle v. City of Hous.*, 613 F.3d 536, 543 (5th Cir. 2010).

must be dismissed with prejudice.

Defendants further note that with regard to Defendants, Boehm and Parker, that Plaintiff's Complaint is devoid of any allegations against either Defendant with regard to Plaintiff's Title VI claim.[395] Indeed, Plaintiff's allegations with regard to his Title VI claim contain **no mention whatsoever** of Defendants, Boehm and Parker.[396] Accordingly, Plaintiff's Title VI claim against Defendants, Boehm and Parker, each in their individual and official capacities, should be dismissed with prejudice for failure to state a claim.

Moreover, even if Defendants, Boehm, Cox, Galloway, Francois, Parker and Church's, actions are construed as a violation of law, Defendants are entitled to qualified immunity as to Plaintiff's Title VI claim, because Plaintiff can point to no case law particularized to Defendants' actions which show that Defendants, Boehm, Cox, Galloway, Francois, Parker and Church's, actions, were violative of clearly established constitutional law.

2. Plaintiff's Title VI claims against Defendants, Smith Boehm, Cox, Galloway, Francois, Parker and Church, in their individual capacities, must be dismissed for failure to state a claim

The proper defendant in a Title VI case is an entity receiving federal financial assistance.[397] Ms. Brown, as an individual, is not a proper defendant in a Title VI claim. Accordingly, to the extent that Plaintiff is asserting his Title VI claim against Defendants, Smith, Boehm, Cox, Galloway, Francois, Parker and Church, in their individual capacities, such claims must be dismissed with prejudice, as Defendants in their individual capacities are not the entity allegedly

[395] See R. Doc. 96, ¶¶ 483 – 502.
[396] *Id*.
[397] *Lewis v. Office of Parish Atty.*, 2015 U.S. Dist. LEXIS 21796 (M.D. La. 2015), citing, *Muthukumar v. Kiel*, 478 Fed. Appx. 156 (5th Cir. 2012) ("We agree with the Eleventh Circuit that Title VI permits suits only against public or private entities receiving funds and not against individuals"); *Shotz v. City of Plantation, Florida*, 344 F.3d 1161, 1171 (11th Cir. 2003) ("[Individuals] are not liable under Title VI."); *Buchanan v. City of Bolivar*, 99 F.3d 1352, 1356 (6th Cir. 1996) (dismissing all Title VI claims against individual defendants because they were not "the entity allegedly receiving the financial assistance.").

receiving financial assistance and are therefore not proper Defendants to assert a Title VI claim against.

3. Plaintiff's Title VI claim against Defendants, Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Jr., Justin Parker and Jeremy Church, must be dismissed as duplicative and redundant

Plaintiff has filed suit against Sheriff Smith, in his official capacity, asserting a Title VI claim.[398] As notes above, Plaintiff's claims against Sheriff Smith, in his official capacity, are actually claims against the local government entity he serves — the St. Tammany Parish Sheriff's Office.[399] Plaintiff has also filed suit against multiple STPSO officials, in their official capacities, asserting the same Title VI claim as the Sheriff, including Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Jr., Justin Parker and Jeremy Church.

In *Santamaria v. Dallas Indep. Sch. Dist.*, the plaintiff filed suit asserting a Title VI claim against the Dallas Independent School District ("DISD") as well as the principal and superintendent.[400] In addressing the plaintiff's Title VI claim against DISD, the principal and the superintendent, the court dismissed plaintiff's Title VI claims against both the principal and the superintendent, on the basis of their redundancy, holding that:

> "Even assuming a principal or superintendent sued in his or her official capacity were a proper Title VI defendant, an official capacity suit is "only another way of pleading an action against an entity of which an officer is an agent." *Kentucky v. Graham*, 473 U.S. 159, 165-66, 105 S. Ct. 3099, 87 L. Ed. 2d 114 (1985). Because Plaintiffs' suit is also against the entity, namely, DISD, any claims against Principal Parker and Superintendent Hinojosa, in their official capacities, are redundant."[401]

A similar outcome was reached in *Cox v. Scott Cty. Sch. Dist.*, wherein the district court

[398] See Plaintiff's Causes of Action No. 9.
[399] *Pudas v. St. Tammany Parish*, 2019 U.S. Dist. LEXIS 96528 (E.D. La. 2019), citing *Bean v. Pittman*, 2014 U.S. Dist. LEXIS 181112 (E.D. La. 2015).
[400] *Santamaria v. Dallas Indep. Sch. Dist.*, 2006 U.S. Dist. LEXIS 83417 (N.D. Tx. 2006)
[401] *Id*.

dismissed the plaintiff's Title VI claims against four defendants who were sued in their official capacities, because the plaintiff was already asserting the same Title VI claim against the Scott City School District.[402]

Similarly, in *Jenkins v. Board of Education of the Houston Indep. Sch. Dist.*, the plaintiff sued Houston ISD officials and the school district itself under the ADA. The district court determined that although the plaintiff could maintain "official capacity" claims under Title VII, it would be redundant to have both the school district and the individual officers named in the lawsuit.[403] Thus, the district court dismissed the claims against the individual defendants in their official capacities and noted:

> "Therefore, because a suit against a public employee in his or her official capacity is simply another way to sue the public entity, Jenkins cannot show that he would be prejudiced by the dismissal of the individual HISD defendants from this case in their official capacities, as HISD is already a defendant. Under these circumstances, Jenkins' claims against HISD defendants should be dismissed, as their presence in this case is merely redundant."[404]

In this case, similarly like with Plaintiff's *Monell* Claims, it is duplicative for Mr. Washington to assert a Title VI claim against the St. Tammany Parish Sheriff, Randy Smith, in his official capacity, while also asserting that same claim against Defendants, Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Jr., Justin Parker and Jeremy Church, each in their official capacities. Accordingly, Plaintiff's Title VI claim against those Defendants should be dismissed with prejudice as duplicative and redundant.

4. No evidence of racial profiling/discriminatory policing in the January traffic stop or the October traffic stop

Defendants further note that there is **no evidence** that any Deputy engaged in any racial

[402] *Cox v. Scott Cty. Sch. Dist.*, 2021 U.S. Dist. LEXIS 60260 (S.D. Ms. 2021)
[403] *Jenkins v. Board of Education of the Houston Indep. Sch. Dist.*, 937 F. Supp. 608 (S.D. Tx. 1996).
[404] *Id*.

profiling and/or discriminatory policing during either the January or October traffic stops. To the contrary, Plaintiff's own Complaint provides that neither traffic stop was undertaken for a racial/discriminatory intent or purpose.

a. January 13, 2023 traffic stop

Plaintiff's allegations that the January 13, 2023 traffic stop was conducted on the basis of race are disproven by Plaintiff's own exhibit, which provides that none of the deputies involved in the traffic stop, Cloud, Lewis or Finn, knew that Mr. Washington was a Black man prior to pulling his vehicle over.[405]

As the Complaint clearly provides, when asked whether he decided to pull Mr. Washington's vehicle over strictly because it was being driven by a Black man, Deputy Cloud stated "Absolutely not."[406]

Question: Prior to activating your emergency lights to initiate the traffic stop, did you pull the vehicle over strictly because it was being driven by a black man.

Answer: Absolutely not. [407]

In response to whether the decision to pull over Mr. Washington was because he was Black and if he knew the race of the occupant prior to the stop, Deputy Lewis stated "No sir."[408]

Question: Prior to initiating the traffic stop, did you decide to pull over Mr. Washington because he was black?

Answer: No sir.

Question: Prior to the stop, did you know the race of the occupant?

Answer: No sir. [409]

When asked whether or not he decided to pull over Mr. Washington because he was Black

[405] See R. Doc. 96-3.
[406] See R. Doc. 96-3, pg. 5.
[407] *Id*.
[408] *Id*. at pg. 7.
[409] *Id*.

and whether his unit pulls people over based on race, Deputy Finn stated "No."[410]

Question: Prior to the traffic stop, was Mr. Washington pulled over because he was a black man?

Answer: No

Question: Does your unit pull people based on race?
Answer: No [411]

As clearly provided above, Plaintiff's own Complaint clearly establishes that the January 13, 2023 traffic stop was not race-related, and in fact, had nothing to do with Mr. Washington's race.

b. October 8, 2023 traffic stop

As previously noted, Plaintiff's allegations that the October 8, 2023 traffic stop was conducted on the basis of race are disproven by Plaintiff's own exhibit, which provides that Deputy Searle not only had no idea that Mr. Washington was Black, but also had no idea whether it was a man or woman who was driving the vehicle being operated by Mr. Washington, or even who Mr. Washington was.[412]

Question: Were you aware that Washington was a black male before you decided to execute a traffic stop?

Answer: Absolutely not... I didn't know if it was a male or female.

Question: Do you consciously pull over black males just because they are black males?

Answer: Absolutely not...

Sergeant Francois asked Dy. Searle one finale question and that was if he knew Washington prior to the traffic stop in question, to which he stated he did not. [413]

Additionally, as laid out above, a review of Deputy Searle's body worn camera footage further indicates that Deputy Searle does **not** pull people over based on their race. The data from

[410] *Id*. at pg. 8.
[411] *Id*.
[412] See R. Doc. 96-14, pg. 3.
[413] *Id*.

Deputy Searle's traffic stops indicates that Deputy Searle stopped White drivers at an alarmingly higher rate of 68.75%.

As the facts clearly provide, Plaintiff's claims that the October traffic stop was the result of discriminatory policing are **without merit**, as the Complaint clearly provides that the traffic stop had **nothing to do with Mr. Washington's race**.

As provided above, the Complaint clearly indicates that neither the January nor the October traffic stops had anything to do with discrimination and/or race, as the Complaint provides that the Defendant deputies do not pull people over based on race, that they had no idea what Mr. Washington's race was prior to the stop and that they did not even know who Mr. Washington was.

Finally, Defendants note that in both the January and October traffic stops, the Deputies decided not to issue Mr. Washington a ticket/traffic citation and decided to let Mr. Washington off with a warning. Accordingly, for these additional reasons, Plaintiff's Title VI claim should be dismissed with prejudice, as Plaintiff has failed to state a viable cause of action against Defendants.

xvi. The eleventh cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff asserts a Claim for Conspiracy to Commit §1983 Violation of Fourth and Fourteenth Amendment Rights Against Cloud, Lewis and Finn.

"A conspiracy may be charged under section 1983 as the legal mechanism through which to impose liability on all of the defendants without regard to who committed the particular act, but 'a conspiracy claim is not actionable without an actual violation of section 1983.'"[414] In the

[414] *Morrow v. Washington*, 672 Fed. Appx. 351 (5th Cir. 2016), citing *Hale v. Townley*, 45 F.3d 914, 920 (5th Cir. 1995) (quoting *Pfannstiel v. City of Marion*, 918 F.2d 1178, 1187 (5th Cir. 1990), abrogated on other grounds by *Martin v. Thomas*, 973 F.2d 449, 455 (5th Cir. 1992)).

qualified immunity context, courts must "first...determine the objective reasonableness of the state action which is alleged to have caused harm to the plaintiff."[415] Only if that action was not objectively reasonable should the court then "look to whether the officer's actions were taken pursuant to a conspiracy."[416] If all defendants "alleged to have violated [a plaintiff's rights] are entitled to qualified immunity...[,] the conspiracy claim is not actionable."[417]

To prove a § 1983 conspiracy, "the plaintiff must show that there was an agreement among the alleged co-conspirators to deprive him of his constitutional rights and that such an alleged deprivation actually occurred."[418] "Conclusory allegations that do not reference specific factual allegations tending to show an agreement do not suffice to state a civil rights conspiracy claim under § 1983."[419] The plaintiff "must show that the defendants agreed to commit an illegal act" intended to violate plaintiff's constitutional rights.[420] Similarly, to prove a conspiracy under La. Civ. Code art. 2324, a plaintiff must prove that "(1) an agreement existed with one or more persons to commit an illegal or tortious act; (2) the act was actually committed; (3) the act resulted in plaintiff's injury; and (4) there was an agreement as to the intended outcome or result."[421]

"The Fourth Amendment protects '[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures.'"[422] In conducting a Fourth Amendment inquiry, "[w]e ask whether the circumstances, viewed objectively, justify [the

[415] *Id*. citing *Pfannstiel*, 918 F.2d at 1187; see also *Hill v. City of Seven Points*, 31 Fed. Appx. 835 [published in full-text format at 2002 U.S. App. LEXIS 30214] (5th Cir. 2002).
[416] *Id*. citing *Pfannstiel*, 918 F.2d at 1187; see also *Hill*, 31 Fed. Appx. 835.
[417] *Hale*, 45 F.3d at 921.
[418] *Spann v. Bogalusa City Police Dep't*, 2021 U.S. Dist. LEXIS 181852 (E.D. La. 2021), citing *Montgomery v. Walton*, 759 F. App'x 312, 314 (5th Cir. 2019); See Also *Shaw v. Villanueva*, 918 F. 3d 414, 419 (5th Cir. 2019) ("No deprivation, no § 1983 conspiracy.").
[419] *Montgomery*, 759 F. App'x at 314 (citing *Arsenaux v. Roberts*, 726 F. 2d 1022, 1023-24 (5th Cir. 1982)).
[420] *Arsenaux*, 726 F. 2d at 1024.
[421] *Doe v. McKesson*, 945 F.3d 818 (5th Cir. 2019) (citing *Crutcher-Tufts Res., Inc. v. Tufts*, 992 So. 2d 1091, 1094 (La. App. 4th Cir. 2008), and La. Civ. Code art. 2324).
[422] *Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011).

challenged] action...[,] whatever the subjective intent motivating the relevant officials."[423]

Defendants first note that because Plaintiff has failed to plead a valid claim against Defendants that Plaintiff's lack of a plausibly alleged constitutional violation precludes his conspiracy claim against Defendants, Cloud, Lewis and Finn.[424]

Defendants further note that Plaintiff has not alleged and/or presented any "facts tending to show a prior agreement ha[d] been made" between the Defendants to specifically violate his Fourth and Fourteenth Amendment rights during the course of the routine traffic stop. Rather, Plaintiff uses the term 'conspiracy' without providing more than conclusory allegations. Plaintiff's complaint contains **no facts and/or allegations** regarding when any agreement was entered into by the Defendants to allegedly violate his constitutional rights or how the Defendants decided to violate his constitutional rights. In fact, Plaintiff's conspiracy claim against the Defendants ignores the fact that Plaintiff has failed to allege **any discussions between the Defendants** whereby the Defendants agreed to enter into a conspiracy to violate his constitutional rights. Defendants further note that Plaintiff's complaint contains no allegations establishing any "meeting of the minds", whereby the Defendants specifically agreed that while on duty that night that their sole purpose would be to specifically look for and target Mr. Washington, in the hopes that he was out operating his vehicle that night, for the purpose of violating his constitutional rights. Instead, the Complaint contains nothing more than **conclusory allegations**, asking this Court to believe that Defendants, Cloud, Lewis and Finn, can read each other's minds, and to believe that in reading each other's

[423] *Id.* (citations and internal quotations omitted); *United States v. Lopez-Moreno*, 420 F.3d 420, 432 (5th Cir. 2005) ("[T]he Court...has made clear that an officer's subjective motivations are irrelevant in determining whether his or her conduct violated the Fourth Amendment."); *Goodwin v. Johnson*, 132 F.3d 162, 173 (5th Cir. 1998) ("So long as a traffic law infraction that would have objectively justified the stop had taken place, the fact that the police officer may have made the stop for a reason other than the occurrence of the traffic infraction is irrelevant for purposes of the Fourth Amendment.").

[424] See *Terwilliger v. Reyna*, 4 F. 4th 270, 285 (5th Cir. 2021) ("To support a conspiracy claim under § 1983, the plaintiff must allege facts that suggest 'an agreement between the...defendants to commit an illegal act' and 'an actual deprivation of constitutional rights.'" (quoting *Cinel v. Connick*, 15 F.3d 1338, 1343 (5th Cir. 1994))).

minds, that they somehow entered into a non-verbal agreement whereby each Defendant somehow knew that they were going to violate Mr. Washington's constitutional rights. Accordingly, Plaintiff's conspiracy claims against Defendants, Cloud, Lewis and Finn, under § 1983 and La. Civ. Code art. 2324, should be dismissed with prejudice.

Moreover, even if Defendants, Cloud, Lewis and Finn's, actions are construed as a violation of law, Defendants are entitled to qualified immunity as to Plaintiff's claim for conspiracy, because Plaintiff can point to no case law particularized to Defendants' actions which show that Defendants, Cloud, Lewis and Finn's, actions, during the course of a routine traffic stop, were violative of clearly established constitutional law.

xvii. The twelfth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff asserts a State Law Claim for Unlawful Search and Seizure in Violation of Article I Sect. 5 of Louisiana Constitution against Defendants Cloud, Lewis, and Finn, alleging that Defendants Cloud, Lewis, and Finn impermissibly extended his detention in addition to unlawfully searching his person and his vehicle.[425] Relying on Louisiana Code of Criminal Procedure Article 215.1(D), Mr. Washington asserts that Defendants extended his detention beyond the time reasonably necessary to complete the investigation into the alleged traffic infraction and to issue a verbal warding by approximately 10 minutes.[426]

Article I, Section 5 of the Louisiana Constitution, which "protects against unreasonable searches and seizures and is, therefore, analogous to the federal Fourth Amendment."[427]

Here, Plaintiff's state law claims for unlawful extension of his detention and unlawful

[425] See R. Doc. 96, ¶ 526.
[426] See R. Doc. 96, ¶ 528, 529.
[427] *May v. Strain*, 55 F. Supp. 3d 885, 901 (E.D. La. 2014).

search of his person and vehicle fail to state a claim upon which relief can be granted, for the same reasons his § 1983 claims fail to present a facially plausible claim.

Moreover, "Louisiana applies qualified immunity principles to state constitutional law claims based on `[t]he same factors that compelled the United States Supreme Court to recognize a qualified good faith immunity for state officers under § 1983.'"[428] As argued above, Mr. Washington's federal constitutional claims fail to overcome qualified immunity, and therefore, his state claims fail on the same grounds.[429]

xviii. The thirteenth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff brings a claim for Invasion of Privacy in Violation of Article 1, Section 5 of the Louisiana Constitution Against Cloud, Lewis and Finn, [430] alleging that Defendant Cloud "intentionally and unreasonably intruded upon Mr. Washington's privacy interest by frisking him despite his clear lack of consent.[431] Plaintiff also alleges that "[t]here was no legal basis for searching Mr. Washinton's person, wallet, or vehicle."[432]

Article 1 § 5 of the Louisiana Constitution provides similar protection for people and their privacy as the Fourth Amendment of the U.S. Constitution.[433] Searches conducted without the prior approval of a judge or magistrate are constitutionally impermissible unless there is applicable

[428] *Smallwood ex rel. T.M. v. New Orleans City*, 2015 WL 5944374 (E.D. La. 2015) (quoting *Roberts v. City of Shreveport*, 397 F.3d 287, 296 (5th Cir. 2005)).
[429] *Id*. ("Inasmuch as Plaintiffs claims under state constitutional law parallel entirely the section 1983 allegations, Plaintiff fails to state a claim against [defendant] sufficient to overcome qualified immunity."); May, 55 F. Supp. 3d at 901 (dismissing claims pursuant to La. Const. art. I § 5 because plaintiffs "failed to demonstrate that Officer Defendants are not entitled to the defense of qualified immunity as to their claims under § 1983").
[430] See R. Doc. 96, ¶¶ 538 – 543.
[431] *Id*. at ¶ 539.
[432] *Id*. at ¶ 540.
[433] *State v. Abram*, 353 So.2d 1019, 1022 (La. 1977), citing *Katz v. United States*, 389 U.S. 347, 88 S. Ct. 507, 19 L. Ed. 2d 576 (1967); *State v. Fearn*, 345 So.2d 468 (La.1977); *State v. Cole*, 337 So.2d 1067 (La.1976); *State v. Nine*, 315 So.2d 667 (La.1975).

one of the "well delineated" exceptions.[434] "Consent to search, one of these exceptions, may well be explained in terms of the expectation of privacy. **A person who consents to a search clearly could not be heard to complain of the violation of his privacy**."[435] "Voluntariness of consent is a question of fact which the trial court is to determine based on the totality of the circumstances."[436]

Defendants first note that while Plaintiff's Complaint provides that it is asserting an invasion of privacy claim against Cloud, Lewis and Finn, that Plaintiff's Complaint contains no actual allegations against Defendants, Lewis and Finn as it relates to his invasion of privacy claim.[437] Indeed, Plaintiff's Complaint provides only that he is asserting a claim for invasion of privacy against Defendant Cloud.[438] This Circuit has continually held that where a complaint alleges no specific act or conduct on the part of the defendant and the complaint is silent as to the defendant except for his name appearing in the caption, that the complaint is properly dismissed.[439] Further, the Fifth Circuit has held that group pleading, such as that used by Plaintiff to include Defendants, Lewis and Finn, is both insufficient to overcome qualified immunity,[440] and insufficient to state a 1983 claim.[441] Accordingly, Plaintiff's claims for invasion of privacy against Defendants, Lewis and Finn, must be dismissed with prejudice.

---

[434] *Id*., citing *Coolidge v. New Hampshire*, 403 U.S. 443, 91 S. Ct. 2022, 29 L. Ed. 2d 564 (1971); *State v. Lain*, 347 So.2d 167 (La.1977); *State v. Hearn*, 340 So.2d 1365 (La.1976).
[435] *Id*. (Emphasis added.)
[436] *State v. Jackson*, 2014 La. App. LEXIS 3198, at *5 (La. App. 5 Cir. 2014).
[437] See R. Doc. 96, ¶¶ 539 – 541.
[438] *Id*.
[439] *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley v. Heyd*, 482 F.2d 590 (noting that the mere inclusion of names and notations of office in the caption does not suffice to state a claim); *Fontenot*, 1994 U.S. App. LEXIS 42734 (holding that even though a pro se plaintiff's pleadings are to be liberally construed, dismissal of defendant was proper where defendant appeared only in the caption of plaintiff's complaint); *Newton*, 2024 U.S. Dist. LEXIS 21259 (dismissing plaintiff's claims against defendants whose names only appeared in the caption of the complaint, but not in the body or text of the complaint) *Zepeda*, 2023 U.S. Dist. LEXIS 174342 (holding that "when a complaint merely mentions a defendant in the caption but fails to allege any conduct on behalf of that Defendant, dismissal under Rule 12(b)(6) is warranted."); See also *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.
[440] See *Armstrong v. Ashley*, 60 F.4th 262.
[441] *Armstrong*, 60 F.4th 262, 274 (rejecting group pleading as sufficient to state a § 1983 claim).

Here, Plaintiff's state law claim for invasion of privacy fails to state a claim upon which relief can be granted, for the same reasons his § 1983 claims for unlawful search and seizure fail to present a facially plausible claim. As noted above, Based on the totality of the circumstances of his January traffic stop, Mr. Washington validly consented to the pat-down, as well as to the search of his wallet and his car.

Moreover, "Louisiana applies qualified immunity principles to state constitutional law claims based on `[t]he same factors that compelled the United States Supreme Court to recognize a qualified good faith immunity for state officers under § 1983.'"[442] As noted above, Mr. Washington's federal constitutional claims fail to overcome qualified immunity, and therefore, his state claims fail on the same grounds.[443]

xix. The fourteenth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff asserts a state law claim for Negligent Infliction of Emotional Distress Against Cloud, Lewis and Finn.

"Louisiana law does not generally recognize an independent cause of action for negligent infliction of emotional distress."[444] The cause of action "is available under limited circumstances only."[445] Specifically, Louisiana tort law recognizes a cause of action for negligent infliction of emotional distress only in extraordinary situations, where there is an "especial likelihood of

[442] *Smallwood ex rel. T.M. v. New Orleans City*, 2015 WL 5944374, *7 (E.D. La. 2015) (quoting *Roberts v. City of Shreveport*, 397 F.3d 287, 296 (5th Cir. 2005)).
[443] *Id*. ("Inasmuch as Plaintiffs claims under state constitutional law parallel entirely the section 1983 allegations, Plaintiff fails to state a claim against [defendant] sufficient to overcome qualified immunity."); *May*, 55 F. Supp. 3d at 901 (dismissing claims pursuant to La. Const. art. I § 5 because plaintiffs "failed to demonstrate that Officer Defendants are not entitled to the defense of qualified immunity as to their claims under § 1983").
[444] *Danks v. Grayson*, 626 F. Supp. 3d 922 (E.D. La. 2022), citing *Lann v. Davis*, 793 So. 2d 463, 466 (La. App. 2 Cir. 2001) (citing *Moresi v. Department of Wildlife*, 567 So. 2d 1081 (La. 1990)); *Bacas v. Falgoust*, 760 So. 2d 1279, 1282 (La. App. 5 Cir. 2000).
[445] *Id*.

genuine and serious mental distress, arising from...special circumstances, which serves as a guarantee that the claim is not spurious."[446] To state a claim for negligent infliction of emotional distress, a plaintiff must allege the following elements: (1) that an independent, direct duty was owed to plaintiff by defendant; (2) that the duty afforded protection to plaintiff for the risk and harm caused; (3) that the duty was breached; and (4) that the mental anguish suffered by the plaintiff was genuine and serious.[447]

Under Louisiana case law, emotional distress is considered "serious" if "a reasonable person, normally constituted, would be unable to cope adequately with the mental distress engendered by the circumstances of the case."[448] "A non-exhaustive list of serious emotional distress includes neuroses, psychoses, chronic depression, phobia, and shock."[449]

In *Danks v. Grayson*, this Court dismissed a plaintiff's claim for negligent infliction of emotional distress stemming from a traffic stop, holding that:

"Plaintiff has not alleged any facts that show her emotional distress is genuine and serious such as neuroses, psychoses, chronic depression, phobia, or shock. Instead, she has simply pled that she suffered serious emotional trauma and continues to experience mental anguish over the humiliation of lying on the ground with her pants down and her body exposed. This is not sufficient."[450]

As previously discussed, Plaintiff has asserted an independent tort claim against Deputies Cloud, Lewis and Finn for negligent infliction of emotional distress stemming from the lawful traffic stop taking place on January 13, 2023.[451]

---

[446] *Danks*, 626 F. Supp. 3d 922, citing *Moresi*, 567 So. 2d at 1096.
[447] *Bacas*, 760 So. 2d at 1282.
[448] *Held v. Aubert*, 845 So. 2d 625, 633-34 (La. App. 1 Cir. 2003).
[449] *Id.*
[450] *Danks v. Grayson*, 626 F. Supp. 3d 922 (E.D. La. 2022).
[451] See R. Doc. 96, ¶¶ 544 – 549.

Defendants first note that Plaintiff's allegations comparing a routine traffic stop, where everyone involved was polite and cordial, Mr. Washington engaged in a pleasant conversation with Deputies regarding a mutual friend, and where no traffic ticket was issued and the stop was ended with a fist bump between Mr. Washington and the Defendants, to the death of Tyree Nichols, occurring in another state over 350 miles away, are not only outrageous, beyond the pale, and demonstrates the unseriousness of Plaintiff's claims, but is outright disrespectful to the family of Mr. Nichols.

Defendants further note that here, as in the case of *Danks*, Plaintiff has not alleged any facts that show his emotional distress is genuine and serious such as neuroses, psychoses, chronic depression, phobia, or shock. Instead, he has simply alleged that he has somehow suffered and continues to suffer "depression, anxiety, increased high blood pressure, headaches, nausea and/or insomnia"[452] as a result of the January 13, 2023 traffic stop.[453] Like the plaintiff in *Danks*, Mr. Washington's allegations are not sufficient.[454]

Defendants additionally note that the facts revolving around the January 13, 2023 traffic stop are **not** extraordinary, and do not constitute a situation, wherein there was an especial likelihood of genuine and serious mental distress, arising from special circumstances. To the contrary, this was nothing more than a **routine traffic stop**, one of fifteen (15) performed that same night by Deputies Cloud and Lewis.[455] As Plaintiff's Complaint provides, the Deputies described the entire traffic stop, and Mr. Washington, as being pleasant.[456] For example, Plaintiff's

[452] See R. Doc. 96, ¶ 547.
[453] Defendants find it odd that Plaintiff is claiming emotional distress, but does not seem to know what specific ailments he is suffering from.
[454] Defendants again note that Plaintiff's continued assertion that the traffic stop taking place in March of 2021 was "unlawful" is without merit. As Plaintiff is well-aware, **all of Plaintiff's claims**, with the exception of Plaintiff's claim for an alleged unlawful search, **have been dismissed with prejudice**. As of this time, trial is set to take place in 2025, and the STPSO is confident that Plaintiff's remaining claim will be **dismissed**.
[455] See R. Doc.965-3.
[456] *Id*.

Complaint provides that Deputy Lewis described the overall atmosphere of the traffic stop as pleasant and describing it as the most casual traffic stop of the fifteen (15) he had the entire night, noting that he had a pleasant conversation with him about a mutual friend who works at the STPSO, and that Mr. Washington fist bumped him upon its completion.[457]

> **Question:** What was the overall atmosphere of the traffic stop?
>
> **Answer:** He was pleasant. I feel as though I was pleasant with him. I did not have to get assertive with him.
>
> **Question:** How did you all go about parting ways?
>
> **Answer:** We gave him a verbal warning and he fist bumped me and went on his way.
>
> **Question:** Did he give you any indication that he felt intimidated or upset in anyway?
>
> **Answer:** No. We actually had a pleasant conversation about a mutual friend. That being Will McIntyre, who also works for the Sheriff's Office.
>
> **Question:** So, for the majority of time on the traffic stop, it was cordial?
>
> **Answer:** It was the most casual traffic stop I had during the entire night?
>
> **Question:** How many traffic stops did you have during the night?
>
> **Answer:** A lot, maybe fifteen. [458]

As clearly provided above, Plaintiff's allegations do not come close to establishing that anything other than a routine traffic stop took place, wherein Plaintiff had a pleasant conversation with the Defendants about a mutual friend, Plaintiff continually offered to help the Deputies open his vehicle, and where the traffic stop ended with a verbal warning and a fist bump between all parties involved. Accordingly, Plaintiff's claim for negligent infliction of emotional distress must be dismissed.

Defendants further note that Plaintiff has failed to properly allege a claim for negligent infliction of emotional distress, as Plaintiff's complaint has fails to allege what duty if any was

[457] *Id*. at pg. 6.
[458] *Id*.

owed by each Defendant to Mr. Washington, or that the duty afforded protection to Mr. Washington for the risk and harm he alleges was caused. Accordingly, for these additional reasons, Plaintiff's claim for negligent infliction of emotional distress must be dismissed.

Moreover, even if Defendants, Cloud, Lewis and Finn's, actions are construed to constitute a claim for negligent infliction of emotional distress, Defendants are entitled to qualified immunity for all such actions because Plaintiff can point to no case law particularized to Defendants' actions which shows that the Defendants' actions, during the course of a routine traffic stop, were violative of clearly established constitutional law.

xx. The fifteenth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

As previously discussed, Plaintiff has also asserted an independent tort claim against Deputy Searle for negligent infliction of emotional distress stemming from the lawful traffic stop taking place on October 8, 2023.[459]

Here, as in the case of *Danks*, Plaintiff has not alleged any facts that show his emotional distress is genuine and serious such as neuroses, psychoses, chronic depression, phobia, or shock. Instead, he has simply alleged that he has suffered and "continues to suffer emotional injury and mental distress"[460] as a result of the October 8, 2023 traffic stop. Like the plaintiff in *Danks*, Mr. Washington's allegations are not sufficient.[461]

Defendants further note that the facts revolving around the October 8, 2023 traffic stop are **not** extraordinary, and do not constitute a situation, wherein there was an especial likelihood of

[459] See R. Doc. 96, ¶¶ 550 – 558.
[460] See R. Doc. 96, ¶ 556.
[461] Defendants again note that Plaintiff's continued assertion that the traffic stop taking place in March of 2021 was "unlawful" is without merit. As Plaintiff is well-aware, **all of Plaintiff's claims**, with the exception of Plaintiff's claim for an alleged unlawful search, **have been dismissed with prejudice**. As of this time, trial is set to take place in 2025, and the STPSO is confident that Plaintiff's remaining claim will be **dismissed**.

genuine and serious mental distress, arising from special circumstances. To the contrary, this was nothing more than a **routine traffic stop**, one of sixteen (16) performed by Deputy Searle from September 1, 2023 through December 12, 2023, wherein Deputy Searle observed a traffic violation, investigation the violation and ultimately decided not to issue a ticket. Therefore, because Plaintiff's allegations do not come close to establishing that anything other than a routine traffic stop took place, Plaintiff's claim for negligent infliction of emotional distress must be dismissed.

Defendants further note that Plaintiff has failed to properly allege a claim for negligent infliction of emotional distress, as Plaintiff's complaint has fails to allege what duty if any was owed by Deputy Searle to Mr. Washington, or that the duty afforded protection to Mr. Washington for the risk and harm he alleges was caused. Accordingly, for these additional reasons, Plaintiff's claim for negligent infliction of emotional distress must be dismissed.

Moreover, even if Deputy Searle's actions are construed to constitute a claim for negligent infliction of emotional distress, Deputy Searle is entitled to qualified immunity for all such actions because Plaintiff can point to no case law particularized to Defendant's actions which shows that Deputy Searle's actions, during the course of a routine traffic stop, were violative of clearly established constitutional law.

xxi. The sixteenth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff asserts a state law claim for Negligent Infliction of Emotional Distress Against Boehm, Galloway, Francois, and Cox. Defendants first note that Plaintiff's Complaint contains **no actual allegations** against Defendant, Jeffrey Boehm, as it relates to his alleged involvement in the investigation of the October 8, 2023 incident, which is the basis for Plaintiff's claim for

negligent infliction of emotional distress against him.[462] As previously noted, this Circuit has continually held that where a complaint alleges no personal involvement, specific act or conduct on the part of the defendant and the complaint is silent as to the defendant except for his name appearing in the caption, that the complaint is properly dismissed.[463] Accordingly, Plaintiff's claim for negligent infliction of emotional distress against Defendant, Jeffrey Boehm, in both his official and individual capacity, must be dismissed with prejudice.

Defendants further note that the fact a grievance or complaint was not investigated or resolved to plaintiff's satisfaction does not implicate any constitutionally protected rights.[464] Additionally, the fact that the Defendants allegedly failed to take disciplinary action in response to Plaintiff's complaint does not show that they knew of and approved of the conduct, determining that it accorded with municipal policy.[465] Second, it is hard to see how any alleged ineffectual or nonexistent response to an incident, occurring well after the fact of the alleged constitutional deprivation, could have caused any further deprivation.[466] Accordingly, Plaintiff has no claim for damages for negligent infliction of emotional distress or otherwise against Defendants, Boehm, Galloway, Francois, and Cox, simply because Deputy Searle was not disciplined to his liking.

Moreover, even if Defendants, Boehm, Galloway, Francois and Cox's, actions are

---

[462] *Id*.

[463] *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley v. Heyd*, 482 F.2d 590 (noting that the mere inclusion of names and notations of office in the caption does not suffice to state a claim); *Fontenot*, 1994 U.S. App. LEXIS 42734 (holding that even though a pro se plaintiff's pleadings are to be liberally construed, dismissal of defendant was proper where defendant appeared only in the caption of plaintiff's complaint); *Newton*, 2024 U.S. Dist. LEXIS 21259 (dismissing plaintiff's claims against defendants whose names only appeared in the caption of the complaint, but not in the body or text of the complaint) *Zepeda*, 2023 U.S. Dist. LEXIS 174342 (holding that "when a complaint merely mentions a defendant in the caption but fails to allege any conduct on behalf of that Defendant, dismissal under Rule 12(b)(6) is warranted."); See also *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.

[464] *Geiger v. Jowers*, 404 F.3d 371, 373-74 (5th Cir. 2005).

[465] *Milam v. City of San Antonio*, 113 Fed. Appx. 622 (5th Cir. 2004).

[466] *Milam*, 113 Fed. Appx. 622, citing *Thomas ex rel. Thomas v. Roberts*, 261 F.3d 1160, 1174-75 (11th Cir. 2001), vacated, 536 U.S. 953, 153 L. Ed. 2d 829, 122 S. Ct. 2653 (2002), reinstated, 323 F.3d 950 (11th Cir. 2003); *Vukadinovich v. McCarthy*, 901 F.2d 1439, 1444 (7th Cir. 1990).

construed to constitute a claim for negligent infliction of emotional distress, Defendants are entitled to qualified immunity for all such actions because Plaintiff can point to no case law particularized to Defendants' actions which shows that the Defendants' actions were violative of clearly established constitutional law.

xxii. The seventeenth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff has asserted a negligent supervision/training claim under Louisiana state law against the 'Supervisor Defendants,' including Jeffrey Boehm, Dale Galloway, Frank Francois and Justin Parker.[467] Plaintiff's allegations, however, fail to allege any facts, actions taken, and/or personal involvement on behalf of Jeffrey Boehm, Dale Galloway, Frank Francois or Justin Parker.[468] Indeed, aside from improperly grouping Jeffrey Boehm, Dale Galloway, Frank Francois and Justin Parker into the claim as so-called 'Supervisor Defendants,' in violation of Fifth Circuit precedent,[469] Plaintiff's Complaint fails to even mention, let alone contain any allegations whatsoever against these Defendants as it relates to his negligent supervision/training claim. Accordingly, Plaintiff has failed to state a negligent supervision/training claim against Jeffrey Boehm, Dale Galloway, Frank Francois and Justin Parker, and Plaintiff's claims against Jeffrey Boehm, Dale Galloway, Frank Francois and Justin Parker, each in their individual and official capacities, should be dismissed with prejudice

xxiii. The eighteenth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff has asserted a failure to intervene claim under Louisiana state law against

[467] See R. Doc. 96, ¶¶ 566 – 573.
[468] *Id*.
[469] *Armstrong*, 60 F.4th 262.

Deputies Cloud, Lewis and Finn.[470] Plaintiff's allegations, however, fail to allege a claim for failure to intervene against Deputy Cloud.[471] Indeed, Plaintiff's Complaint only alleges specific allegations of failure to intervene as to Deputies Lewis[472] and Finn.[473] As previously noted, this Circuit has continually held that where a complaint alleges no specific act or conduct on the part of the defendant and the complaint is silent as to the defendant except for his name appearing in the caption, that the complaint is properly dismissed.[474] Here, Plaintiff has simply included Deputy Cloud's name in the caption of the section where he asserts a failure to intervene claim, as well as in the closing paragraph where he asserts that Deputy Cloud violated his duty to intervene.[475] As Plaintiff's Complaint clearly provides, Plaintiff has failed to plead any allegations regarding Deputy Cloud's failure to intervene in any regard, including any conduct and/or actions on his behalf constituting a claim for failure to intervene. Accordingly, Plaintiff has failed to state a failure to intervene claim against Deputy Cloud, and Plaintiff's claims against Deputy Cloud should be dismissed with prejudice

xxiv. The nineteenth cause of action must be dismissed for failure to state a claim, and, alternatively, because Defendants are entitled to qualified immunity

Plaintiff has asserted a false imprisonment claim under Louisiana state law against the group of Defendants Plaintiff refers to as "The Officer Defendants," of which the Plaintiff includes

---

[470] See R. Doc. 96, ¶¶ 574 – 587.
[471] *Id*.
[472] *Id*. at ¶¶ 581 – 585.
[473] *Id*. at ¶ 585.
[474] *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley v. Heyd*, 482 F.2d 590 (noting that the mere inclusion of names and notations of office in the caption does not suffice to state a claim); *Fontenot*, 1994 U.S. App. LEXIS 42734 (holding that even though a pro se plaintiff's pleadings are to be liberally construed, dismissal of defendant was proper where defendant appeared only in the caption of plaintiff's complaint); *Newton*, 2024 U.S. Dist. LEXIS 21259 (dismissing plaintiff's claims against defendants whose names only appeared in the caption of the complaint, but not in the body or text of the complaint) *Zepeda*, 2023 U.S. Dist. LEXIS 174342 (holding that "when a complaint merely mentions a defendant in the caption but fails to allege any conduct on behalf of that Defendant, dismissal under Rule 12(b)(6) is warranted."); See also *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.
[475] *Id*. at ¶ 586.

Deputies Cloud, Lewis and Finn.[476] Plaintiff's allegations against "The Officer Defendants," however, fail to properly allege a claim for false imprisonment against Deputies Cloud, Lewis and Finn, as they are entirely based on group pleading. As previously noted above, the Fifth Circuit has held that group pleading, such as that used by Plaintiff to assert a claim for false imprisonment against "The Officer Defendants," is both insufficient to overcome qualified immunity,[477] and insufficient to state a 1983 claim.[478] Accordingly, Plaintiff's state law claim for false imprisonment against Defendants, Cloud, Lewis and Finn, in their individual capacities, should therefore be dismissed with prejudice.

Defendants further note that Plaintiff's state law claim for false imprisonment also fails to allege any specific conduct, actions and/or personal involvement on behalf of each individual Defendant.[479] In fact, Plaintiff's allegations, with regard to his state law claim for false imprisonment, fails to even mention these Defendants' names.[480] Accordingly, because Plaintiff has failed to allege any actions, conduct and/or personal involvement on behalf of Deputies Cloud, Lewis and Finn, Plaintiff's state law claim for false imprisonment must be dismissed.[481]

Moreover, even if Defendants, Cloud, Lewis and Finn's, actions are construed to constitute a state law claim for false imprisonment, Defendants are entitled to qualified immunity for all such actions because Plaintiff can point to no case law particularized to Defendants' actions which

---

[476] *Id*. at ¶¶ 588 – 595.
[477] See *Armstrong v. Ashley*, 60 F.4th 262, 274.
[478] *Armstrong*, 60 F.4th 262, 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[479] See R. Doc. 96, Complaint, ¶¶ 588 – 595.
[480] *Id*.
[481] *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley v. Heyd*, 482 F.2d 590 (noting that the mere inclusion of names and notations of office in the caption does not suffice to state a claim); *Fontenot*, 1994 U.S. App. LEXIS 42734 (holding that even though a pro se plaintiff's pleadings are to be liberally construed, dismissal of defendant was proper where defendant appeared only in the caption of plaintiff's complaint); *Newton*, 2024 U.S. Dist. LEXIS 21259 (dismissing plaintiff's claims against defendants whose names only appeared in the caption of the complaint, but not in the body or text of the complaint) *Zepeda*, 2023 U.S. Dist. LEXIS 174342 (holding that "when a complaint merely mentions a defendant in the caption but fails to allege any conduct on behalf of that Defendant, dismissal under Rule 12(b)(6) is warranted."); See also *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.

shows that Defendants' actions, during the course of a routine traffic stop, were violative of clearly established constitutional law.

xxv. The twentieth cause of action must be dismissed for failure to state a claim

Plaintiff has asserted a state law claim for vicarious liability against the 'Supervisor Defendants,' including Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Justin Parker and Jeremy Church.[482] Plaintiff's allegations, however, fail to allege any facts, actions taken, and/or personal involvement on behalf of Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Justin Parker and Jeremy Church.[483] Indeed, aside from improperly grouping Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Justin Parker and Jeremy Church into the claim as so-called 'Supervisor Defendants,' in violation of Fifth Circuit precedent,[484] Plaintiff's Complaint fails to even mention, let alone contain any allegations whatsoever against these Defendants as it relates to his vicarious liability claim. Accordingly, Plaintiff has failed to state a vicarious liability claim against Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Justin Parker and Jeremy Church, and Plaintiff's claims against Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Justin Parker and Jeremy Church, each in their individual and official capacities, should be dismissed with prejudice.

Defendants further note that Plaintiff is already asserting a claim for vicarious liability against Sheriff Smith. Accordingly, any and all claims for vicarious liability against Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Justin Parker and Jeremy Church are redundant and duplicative and should be dismissed with prejudice.

---

[482] *Id*. at ¶¶ 596 – 602.
[483] *Id*.
[484] *Armstrong*, 60 F.4th 262.

xxvi. The twenty-first cause of action must be dismissed for failure to state a claim

Plaintiff has asserted a *Monell* claim under the First and Fourth Amendments for an alleged express or implied policy of treating public requests for police misconduct differently against various Defendants, including Sheriff Smith, Jeff Boehm, and a group of Defendants Plaintiff refers to as the "Custodian Defendants," of which the Plaintiff includes Denise Mancuso, Jeanine Buckner and Michael Sevante.[485] Plaintiff's allegations against the "Custodian Defendants," however, fail to properly allege a *Monell* claim with regard to failure to respond to public records requests against Jeanine Bucker and Michael Sevante, as they are entirely based on group pleading. As previously noted above, the Fifth Circuit has held that group pleading, such as that used by Plaintiff to assert a *Monell* claim with regard to failure to respond to public records requests against the "Custodian Defendants," is both insufficient to overcome qualified immunity,[486] and insufficient to state a 1983 claim.[487] Indeed, Defendant, Jeanine Buckner's, name is not mentioned one single time throughout all of Plaintiff's allegations relating to his *Monell* claim with regard to failure to respond to public records requests,[488] nor does Plaintiff's entire Complaint contain one single allegation of any personal involvement and/or specific conduct or action which Ms. Buckner engaged in.[489] Accordingly, Plaintiff's claims against Defendant, Jeanine Bucker, in both her individual and official capacities, must be dismissed with prejudice.

Defendants further note that Plaintiff's Complaint as to this claim only mentions Michael Sevante's name one (1) single time, in a footnote, wherein Plaintiff notes as follows:

> "Custodian Defendants believed Mr. Washington was collecting this information in anticipation of litigation. Defendant Mancuso had provided

[485] See R. Doc. 96, Complaint, ¶¶ 280 – 304, 603 – 618.
[486] See *Armstrong* 60 F.4th 262, 274.
[487] *Armstrong*, 60 F.4th 262, 274 (rejecting group pleading as sufficient to state a § 1983 claim).
[488] See R. Doc. 96, Complaint, ¶¶ 280 – 304, 603 – 618.
[489] See R. Doc. 96, Complaint.

> notes to Defendant Sevante regarding the records Mr. Washington's legal counsel inspected in person on December 7, 2023. Mr. Washington, through his legal counsel, requested those notes via a public records request on December 7, 2023."[490]

As provided above, Plaintiff's single mention of Michael Sevante in a footnote, which simply notes that Ms. Mancuso allegedly provided him a copy of some notes, fails to properly assert a valid cause of action against Mr. Sevante, as there are no specific allegations detailing any actions that Mr. Sevante engaged in that were allegedly unlawful. Indeed, Plaintiff's Complaint contains no allegations of any specific actions actually undertaken by Michael Sevante, and further contains no allegations that Mr. Sevante, himself, personally withheld, chose not to produce or made any personal decision to withhold any of the requested records from Plaintiff. Accordingly, Plaintiff's claims against Defendant, Michael Sevante, in both his individual and official capacities, must be dismissed with prejudice.

Defendants further note that Plaintiff's *Monell* claim with regard to failure to respond to public records requests also fails to allege any specific conduct, actions and/or personal involvement on behalf of each Jeffrey Boehm or Jeanine Buckner.[491] In fact, Plaintiff's allegations, with regard to his claim fails to even mention these Defendants' names.[492] Accordingly, because Plaintiff has failed to allege any actions, conduct and/or personal involvement on behalf of Jeffrey Boehm, Jeanine Buckner or Michael Sevante, Plaintiff's *Monell* claim with regard to failure to respond to public records requests, against Defendants, Jeffrey Boehm, Jeanine Buckner and Michael Sevante, in both their individual and official capacities, must be dismissed with prejudice.[493]

---

[490] *Id*. at pg. 60, footnote no. 71.
[491] See R. Doc. 96, Complaint, ¶¶ 280 – 304, 603 – 618.
[492] *Id*.
[493] *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley v. Heyd*, 482 F.2d 590 (noting that the mere inclusion of names and notations of office in the caption does not suffice to state a claim); *Fontenot*, 1994 U.S. App. LEXIS 42734 (holding that even though a pro se plaintiff's pleadings are to be liberally construed, dismissal of defendant was proper

Defendants further note that Plaintiff is already asserting this *Monell* claim against Sheriff Smith. Accordingly, Plaintiff's *Monell* claim against Jeffrey Boehm, Denise Mancuso, Jeanine Buckner and Michael Sevante are redundant and duplicative and should be dismissed with prejudice.[494]

xxvii. The twenty-second cause of action must be dismissed for failure to state a claim

Plaintiff has asserted a state law claim pursuant to La. R.S. § 44:35 for failure to respond to public records requests against various Defendants, including Sheriff Smith, Jeff Boehm, and a group of Defendants Plaintiff refers to as the "Custodian Defendants," of which the Plaintiff includes Denise Mancuso, Jeanine Buckner and Michael Sevante.[495] Plaintiff's allegations against the "Custodian Defendants," however, fail to properly allege a valid claim against Denise Mancuso, Jeanine Bucker or Michael Sevante, as they are entirely based on group pleading. As previously noted above, the Fifth Circuit has held that group pleading, such as that used by Plaintiff to assert his claim pursuant to La. R.S. § 44:35 against the "Custodian Defendants," is both insufficient to overcome qualified immunity,[496] and insufficient to state a 1983 claim.[497] Indeed, Jeanine Buckner's name is not even mentioned one single time throughout all of Plaintiff's allegations relating to his claim pursuant to La. R.S. § 44:35,[498] nor does Plaintiff's entire Complaint contain one single allegation of any personal involvement and/or specific conduct or

where defendant appeared only in the caption of plaintiff's complaint); *Newton*, 2024 U.S. Dist. LEXIS 21259 (dismissing plaintiff's claims against defendants whose names only appeared in the caption of the complaint, but not in the body or text of the complaint) *Zepeda*, 2023 U.S. Dist. LEXIS 174342 (holding that "when a complaint merely mentions a defendant in the caption but fails to allege any conduct on behalf of that Defendant, dismissal under Rule 12(b)(6) is warranted."); See also *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.

[494] Defendants further note that these same claims would also be duplicative and redundant as to the STPSO Records Custodian(s) John Doe(s), and therefore such claims should also be dismissed.

[495] See R. Doc. 96, ¶¶ 619 – 632.

[496] See *Armstrong*, 60 F.4th 262, 274.

[497] *Armstrong*, 60 F.4th 262, 274 (rejecting group pleading as sufficient to state a § 1983 claim).

[498] See R. Doc. 96, Complaint, ¶¶ 280 – 304, 619 – 632.

action which Ms. Buckner.[499] Accordingly, Plaintiff's claims against Defendant, Jeanine Bucker, in both her individual and official capacities, must be dismissed with prejudice.

Defendants further note that Plaintiff's Complaint as to this claim only mentions Michael Sevante's name one (1) single time, in a footnote, wherein Plaintiff notes as follows:

> "Custodian Defendants believed Mr. Washington was collecting this information in anticipation of litigation. Defendant Mancuso had provided notes to Defendant Sevante regarding the records Mr. Washington's legal counsel inspected in person on December 7, 2023. Mr. Washington, through his legal counsel, requested those notes via a public records request on December 7, 2023."[500]

As provided above, Plaintiff's single mention of Michael Sevante in a footnote, which simply notes that Ms. Mancuso allegedly provided him a copy of some notes, fails to properly assert a valid cause of action against Mr. Sevante, as there are no specific allegations detailing any actions that Mr. Sevante engaged in that were allegedly unlawful. Indeed, Plaintiff's Complaint contains no allegations of any specific actions actually undertaken by Michael Sevante, and further contains no allegations that Mr. Sevante, himself, personally withheld, chose not to produce or made any personal decision to withhold any of the requested records from Plaintiff. Accordingly, Plaintiff's claims against Defendant, Michael Sevante, in both his individual and official capacities, must be dismissed with prejudice.

Defendants further note that Plaintiff's claim pursuant to La. R.S. § 44:35 also fails to allege any specific conduct, actions and/or personal involvement on behalf of Jeffrey Boehm, Jeanine Buckner or Michael Sevante.[501] In fact, Plaintiff's allegations, with regard to his claim fails to even mention these Defendants' names.[502] Accordingly, because Plaintiff has failed to

[499] See R. Doc. 96, Complaint.
[500] *Id*. at pg. 60, footnote no. 71.
[501] See R. Doc. 96, Complaint, ¶¶ 280 – 304, 619 – 632.
[502] *Id*.

allege any actions, conduct and/or personal involvement on behalf of Jeffrey Boehm, Jeanine Buckner and Michael Sevante, Plaintiff's claim pursuant to La. R.S. § 44:35, against Defendants, Jeffrey Boehm, Jeanine Buckner and Michael Sevante, in both their individual and official capacities, must be dismissed with prejudice.[503]

Defendants further note that Plaintiff is already asserting a claim pursuant to La. R.S. § 44:35 against Sheriff Smith. Accordingly, Plaintiff's claims pursuant to La. R.S. § 44:35 against Jeffrey Boehm, Denise Mancuso, Jeanine Buckner and Michael Sevante are redundant and duplicative and should be dismissed with prejudice.[504]

xxviii. Defendants respectfully suggest that the Court declines jurisdiction on Plaintiff's state law claims

As noted above, Defendants respectfully suggest that they are entitled to dismissal of all of Plaintiff's claims under both § 1983 and state law. In the event, however, that this Honorable Court dismisses all of Plaintiffs' § 1983 claims, but not all of Plaintiffs' state law claims, Defendants respectfully request that this Court decline to exercise supplemental jurisdiction over any remaining state law claims. Defendants' request is based on 28 U.S.C. § 1367(c), which permits a court, in its discretion, to decline to exercise supplemental jurisdiction over a claim when the court has dismissed all claims over which it has original jurisdiction.

[503] *Brenckle*, 2018 U.S. Dist. LEXIS 113419, citing *Tuley v. Heyd*, 482 F.2d 590 (noting that the mere inclusion of names and notations of office in the caption does not suffice to state a claim); *Fontenot*, 1994 U.S. App. LEXIS 42734 (holding that even though a pro se plaintiff's pleadings are to be liberally construed, dismissal of defendant was proper where defendant appeared only in the caption of plaintiff's complaint); *Newton*, 2024 U.S. Dist. LEXIS 21259 (dismissing plaintiff's claims against defendants whose names only appeared in the caption of the complaint, but not in the body or text of the complaint) *Zepeda*, 2023 U.S. Dist. LEXIS 174342 (holding that "when a complaint merely mentions a defendant in the caption but fails to allege any conduct on behalf of that Defendant, dismissal under Rule 12(b)(6) is warranted."); See also *Mayo*, 2010 U.S. Dist. LEXIS 114999; *Bueno Invs., Inc.*, 2016 U.S. Dist. LEXIS 57729.

[504] Defendants further note that these same claims would also be duplicative and redundant as to the STPSO Records Custodian(s) John Doe(s), and therefore such claims should also be dismissed.

xxix. All claims against Sheriff Randy Smith in his official capacity must be dismissed

As previously noted above, Plaintiff has filed suit against Sheriff Randy Smith in his official capacity. A suit against a government officer in his official capacity "generally represent[s] only another way of pleading an action against an entity of which an officer is an agent."[505] "It is not a suit against the official personally, for the real party in interest is the entity."[506] "[A] plaintiff seeking to recover on a damages judgment in an official-capacity suit must look to the government entity itself."[507]

"[E]very sheriff in Louisiana is a political subdivision unto himself, and there is no such thing as a 'Parish Sheriff's Department' or 'Parish Sheriff's Office.'"[508] Sheriff Smith is, for all intents and purposes, the "political subdivision" when he appears in his official capacity. Thus, "official capacity claims" against Sheriff Smith are really claims against the St. Tammany Parish Sheriff itself – a political subdivision of the State of Louisiana.[509]

Here, Plaintiff has only made conclusory allegations that the STPSO, through Sheriff Smith, was permitting numerous vague unconstitutional policies and practices. Plaintiff, however, has failed to establish any longstanding policy, custom or practice ***that Sheriff Smith*** had actual or constructive knowledge of, that was an actual constitutional violation. Instead, Plaintiff's *Monell* claims are based on: (1) news articles discussing statements and actions taken by the prior Sheriff's administration; (2) vague allegations of alleged department-wide racism by the STPSO without naming/describing a single policy, individual who instituted it, or any individual who has

[505] *Ky v. Graham*, 473 U.S. 159, 165 (1985) (quoting *Monell v. New York City Dept. of Social Services*, 436 U.S. 658 (1978).
[506] *Id*. at 166 (emphasis original).
[507] *Id*.
[508] *Powe v. May*, 2003 U.S. App. LEXIS 28628, pp. 2-3 (5th Cir. 2003) (citations omitted); *see also Cozzo v. Tangipahoa Parish Council-President Gov't*, 279 F. 3d 273, 283 (5th Cir. 2002) (same proposition).
[509] *See* La. Const. Art. V, § 27; La. R.S. 13:5102.B.

supposedly been effect by it; and (3) one (1) single case, (*Washington I*), where **all of Mr. Washington's claims** with the exception of one (1) single claims for an alleged unlawful search, were **dismissed with prejudice**.[510] Defendants note that in this case, *Washington I*, there have been **no findings of any violations of constitutional law**. Instead, Plaintiff's reliance on this case rests on the denial of summary judgment as to Plaintiff's one (1) single due to the existence of genuine issues of material fact.[511] Accordingly, Plaintiff has **failed** to provide any evidence of a single longstanding policy, custom or practice of the STPSO that is in any way unconstitutional for purposes of establishing any *Monell* claim.

Accordingly, Plaintiff has failed to allege and/or establish any constitutional violation resulting from any alleged policy or custom of the Defendants. Therefore, because Plaintiff has failed to establish any facts constituting a *Monell* cause of action against Sheriff Randy Smith, all official capacity claims against him should be dismissed with prejudice, as no viable grounds for liability under *Monell* are stated.

xxx. All claims against Sheriff Randy Smith in his individual capacity must be dismissed

As previously noted above, Plaintiff has filed suit against Sheriff Randy Smith in his individual capacity. In order to establish personal liability, a §1983 Plaintiff must show that the defendant was personally involved in the deprivation or that the defendant's wrongful actions were causally connected to the deprivation.[512] "Personal involvement is an essential element of a civil rights cause of action."[513]

In this case, there can be no individual capacity liability of Sheriff Smith because there are

[510] Defendants are very confident that Plaintiff's final claim will be dismissed at trial.
[511] See *Washington v. Smith*, 639 F. Supp. 3d 625.
[512] *Jones v. Lowndes County*, 678 F.3d 344, 349 (5th Cir. 2012); *James v. Tex. Collin Cty.*, 535 F.3d 365, 373 (5th Cir. 2008).
[513] *McManus*, 2024 U.S. Dist. LEXIS 71608, citing *Thompson v. Steele*, 709 F.2d 381, 382 (5th Cir. 1983).

no allegations of any conduct or personal involvement on his behalf. Indeed, Plaintiff's complaint contains no allegations that he was even involved in, much less aware of either traffic stop at issue, or of Mr. Washington's complaints, or that he had any knowledge of any of the matters listed throughout Plaintiff's Complaint. Further, Plaintiff has failed to present any viable evidence and/or allegations supporting supervisory liability,[514] which requires a showing that: "(1) the supervisor either failed to supervise or train the subordinate officer; (2) a causal link exists between the failure to train or supervise and the violation of the plaintiff's rights, and (3) the failure to train or supervise amounts to deliberate indifference."[515]

Accordingly, because there are no allegations or evidence supporting liability against Sheriff Smith in his individual capacity, all such claims should be dismissed with prejudice. Nonetheless, to the extent any such factual allegations are made, which are denied, Sheriff Smith further asserts the defense of qualified immunity. Defendants further assert that Plaintiff is unable to point to any clearly established law particularized to the facts of this case which would establish that Sheriff Smith is not entitled to qualified immunity for any claims made against him in his individual capacity. Thus, again, all such claims against him should be dismissed with prejudice.

xxxi. Punitive damages

Punitive damages are available only against officers sued in their individual capacities under §1983 if it is shown that a defendant's conduct was motivated by evil motive or intent or involves reckless or callous indifference of the federally protected rights of others.[516] It is also well settled Louisiana law that punitive damages are not allowed in civil cases unless specifically provided by

[514] Supervisory officials cannot be liable under § 1983 on any theory of vicarious or *respondeat superior* liability. *See Estate of Davis v. City of N. Richland Hills*, 406 F. 3d 375, 381 (5th Cir. 2005).
[515] *Davidson v. City of Stafford*, 2017 U.S. App. LEXIS 5665, p. 23 (5th Cir. 2017) (citation omitted).
[516] *Smith v. Wade*, 461 U.S. 30, 56 (1983); *Kolstad v. ADA*, 527 U.S. 526 (1999); *Simmons v. City of Mamou*, 2009 WL 3294977 (W.D. La. 2009).

statute, and in the absence of such a specific statutory provision only compensatory damages may be recovered.[517] Where the pleadings filed by plaintiff fail to identify a statutory provision which allows the recovery of punitive damages for state law claims asserted against the defendant, it is appropriate to dismiss those claims.[518]

In this case, Plaintiff has alleged that he is entitled to punitive damages against Defendants, Cloud, Lewis and Finn, for the following claims: (1) Unlawful Extension of Detention;[519] (2) Unlawful Search and Seizure;[520] (3) Unlawful Search;[521] (4) Conspiracy;[522] and (5) Unlawful Search and Seizure in violation of Article I, Section 5 of the Louisiana Constitution.[523]

As provided above in great detail, despite Plaintiff's assertions to the contrary, Plaintiff has failed to allege any conduct on behalf of Defendants that amounts to a Constitutional violation. Additionally, Plaintiff has failed to provide any evidence supporting that any of the alleged conduct was done for any punitive reason, that it was motivated by an evil intent, or involved reckless or callous indifference to Plaintiff's federally protected rights. Accordingly, Plaintiff's punitive damages claims against the Defendants must be dismissed in their entirety.

Defendants further note that a Section 1983 claim against a Louisiana sheriff in his official capacity "is 'in essence' a suit against a municipality,"[524] and the United States Supreme Court has held unequivocally that "[a] municipality is immune from liability for punitive damages in a § 1983 action."[525] "It is well settled that municipalities are not subject to the imposition of punitive

---

[517] *International Harvester Credit Corp. v. Seale*, 518 So.2d 1039, 1041 (La. 1988); *Savoy v. St. Landry Parish Counsel*, 2008 WL 2796887 (W.D. La. 2008).
[518] *Savoy*, supra.
[519] See R. Doc. 96, Complaint, ¶ 331.
[520] *Id*. at ¶ 365.
[521] *Id*. at ¶ 427.
[522] *Id*. at ¶ 522.
[523] *Id*. at ¶ 536.
[524] *Brown v. Strain*, 663 F.3d 245, 251 (5th Cir. 2011) (citing *Woodard v. Andrus*, 419 F.3d 348, 352 (5th Cir. 2005)); *Williams v. Gusman*, 2015 U.S. Dist. LEXIS 96868 (E.D. La. 2015); *See also*, *Bouchereau v. Gautreaux*, 2015 U.S. Dist. LEXIS 121225 (M.D. La. 2015); *Jordan v. Prator*, 2013 U.S. Dist. LEXIS 114389 (W.D. La. 2013).
[525] *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 270-71 (1981).

damages under Section 1983."[526] Furthermore, "[i]t is equally well settled that a suit against a municipal official in his or her official capacity is simply another way of alleging municipal liability."[527] Plaintiff is therefore barred from recovering punitive damages against a defendant acting in his official capacity, and Plaintiff's demand for punitive damages against any of the Defendants in their official capacities must be dismissed.

Moreover, even if Defendants, Cloud, Lewis and Finn's, actions are construed as a constituting a claim for punitive damages, Defendants are entitled to qualified immunity because Plaintiff can point to no case law particularized to Defendants' actions which show that Defendants, Cloud, Lewis and Finn's, actions, during the course of a routine traffic stop, were violative of clearly established constitutional law.

Additionally, with regard to Plaintiff's claim for punitive damages under Louisiana law (Unlawful Search and Seizure in violation of Article I, Section 5 of the Louisiana Constitution), Defendants again note that punitive damages are **not allowed** under Louisiana law absent a specific statutory provision.[528] Because Plaintiff has failed to identify any Louisiana statute specifically authorizing an award for punitive damages in this case, Plaintiff's claims for punitive damages under Louisiana state law should be dismissed with prejudice.[529]

Finally, Defendants note that Plaintiff's complaint fails to assert a claim for punitive damages as to any of the remaining Defendants in either their official and/or individual capacities.

---

[526] *Howell v. Town of Ball*, 2012 U.S. Dist. LEXIS 128433 (W.D. La. 2012) (citing *Cook County v. United States ex rel. Chandler*, 538 U.S. 119, 123 (2003); *City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, (1981); and *Webster v. City of Houston*, 735 F.2d 838 (5th Cir. 1984)).

[527] *Howell*, 2012 U.S. Dist. LEXIS 128433 (citing *Monell*, 436 U.S. 658 (1978)).

[528] *Hudson v. Town of Woodworth*, 2017 U.S. Dist. LEXIS 94922 (W.D. La. 2017), citing *Golden v. Columbia Casualty Co.*, 2015 U.S. Dist. LEXIS 75691 (M.D. La. 2015) (citing *Zaffuto v. City of Hammond*, 308 F.3d 485, 491 (5th Cir. 2002)); See also *Killebrew v. Abbott Laboratories*, 359 So. 2d 1275, 1278 (La. 1978).

[529] See *Pittle v. McGlynn*, 2010 U.S. Dist. LEXIS 81200 (M.D. La. 2010) (Plaintiffs fail to cite any statute in either their amended complaint or their memorandum in opposition that provides for such damages, nor do they provide controlling case law. Accordingly, Plaintiffs' claim for punitive damages is dismissed.)

Accordingly, in an abundance of caution, Defendants respectfully request that any claims by Plaintiff for punitive damages against Defendants, Randy Smith, George Cox, Dale Galloway, Frank Francois, Jr., Douglas Searle, Justin Parker, Jeffrey Boehm, Denise Mancuso, Jeanine Buckner, Michael Sevante and Jeremy Sevante, each in their official and/or individual capacities, be dismissed with prejudice.

xxxii. Pre-judgment interest

State law governs the calculation of prejudgment interest in § 1983 claims, but the decision whether to award prejudgment interest is discretionary.[530] The district court does not have to award prejudgment interest on Section 1983 claims.[531] Prejudgment interest may be appropriate in a § 1983 action if it is necessary to make the plaintiff whole, such as in cases where a Plaintiff has sustained significant and extensive medical expenses. See *Pressey v. Patterson*, 898 F.2d 1018, 1026 (5th Cir. 1990) (discussing award of prejudgment interest for § 1983 damages that included extensive medical expenses).[532]

In this case, Plaintiff's complaint contains no allegations of any medical treatment received by Plaintiff or any medical expenses incurred by Plaintiff. Accordingly, Defendants respectfully request that this Honorable Court issue and Order dismissing Plaintiff's claim for prejudgment interest.

xxxiii. Plaintiff's improper request for relief

In this case, Plaintiff's Prayer for Relief provides that he is seeking that this Court mandate that the STPSO institute Plaintiff's personal policy changes, as well as mandating Plaintiff's choice

[530] *Rodrigue v. Morehouse Det. Ctr.*, 2014 U.S. Dist. LEXIS 86707 (W.D. La. 2014), citing *Sawyer v. Hickey*, 68 F.3d 472 (5th Cir. 1995) (citing *Pressey v. Patterson*, 898 F.2d 1018, 1026 (5th Cir. 1990)); *San Jacinto Sav. v. Kacal*, 8 F.3d 21 (5th Cir. 1993)
[531] *Rodrigue*, 2014 U.S. Dist. LEXIS 86707, citing *Hale v. Fish*, 899 F.2d 390, 404 (5th Cir. 1990).
[532] *Pressey v. Patterson*, 898 F.2d 1018, 1026 (5th Cir. 1990).

of training, including ordering:

> - STPSO employees to consistently record in event and field interview and/or contact reports when a search of a person or property occurred during an investigatory or traffic stop, including: whether the search was based on reasonable suspicion, probable cause or consent;
>
> - In cases of nonconsensual searches, officers to indicate the factors and/or circumstances justifying reasonable suspicion;
>
> - Monitoring of the frequency of frisks, as well as the sufficiency and propriety of circumstances STPSO officers articulate as justifying said frisks;
>
> - An STPSO-wide training on valid and voluntary consent, including coercive procedures;
>
> - An update to STPSO policies and procedures clearly enunciating the requirements for valid and voluntary consent and what may be understood as a coercive procedure by a stopped individual.[533]

However, as the Supreme Court held in *Lewis v. Casey*, the judiciary has no authority under Article III to control policymaking of a public official/office, noting that:

> "Principles of federalism and separation of powers impose stringent limitations on the equitable power of federal courts. When these principles are accorded their proper respect, Article III cannot be understood to authorize the Federal Judiciary to take control of core state institutions like prisons, schools, and hospitals, and assume responsibility for making the difficult policy judgments that state officials are both constitutionally entitled and uniquely qualified to make."[534]

The Fifth Circuit has specifically held that the judiciary should neither assume the responsibility nor usurp authority not delegated to it.[535] Further the district court is **not a policy maker, nor does it have the authority to determine best practices for law enforcement**.[536]

Accordingly, Plaintiff's request that this Court exceed its Article III powers and essentially

[533] See R. Doc. 96, pgs. 123 – 124,
[534] *Lewis v. Casey*, 518 U.S. 343 (1996).
[535] See *Wilson v. First Houston Investment Corp.*, 566 F.2d 1235, 1244 (5th Cir. 1978).
[536] *United States v. Ulrich*, 2022 U.S. Dist. LEXIS 212966 (Dist. S.D. 2022). (emphasis added).

take control of the STPSO in order to implement Plaintiff's chosen policies and training should be denied.

CONCLUSION

For the reasons expressed above, all claims against Defendants should be dismissed with prejudice. Plaintiff fails to state any claim against Defendants upon which relief may be granted. Further, Plaintiff relies upon wholly conclusory statements about Defendants' liability for the alleged events of January 13, 2023 and October 8, 2023. Moreover, even if a claim for relief is stated against Defendants in their respective individual capacities, which is denied, **Defendants aver that each individual Defendant is entitled to qualified immunity under federal and state law** and, thus are entitled to dismissal with prejudice.

Respectfully submitted,

MILLING BENSON WOODWARD L.L.P.

s/ Andrew R. Capitelli

ANDREW R. CAPITELLI, T.A. # 31649
KENNETH R. WHITTLE # 38640
NICHOLAS P. ISOLANI # 40831
PAIGE S. STEIN # 40954
68031 Capital Trace Row
Mandeville, LA 70471
Telephone: (985) 292-2000
Facsimile: (985) 292-2001
acapitelli@millinglaw.com
kwhittle@millinglaw.com
nisolani@millinglaw.com
pstein@millinglaw.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana on October 4, 2024, by using the CM/ECF system, which system will send a notice of electronic filing to appearing parties in accordance with the procedures established. Any unrepresented parties appearing are being sent a copy of the above and foregoing through the U.S. Mail, postage prepaid and properly addressed, on October 4, 2024.

s/ Andrew R. Capitelli
Andrew R. Capitelli

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRUCE WASHINGTON,	*	**CIVIL ACTION NO. 2:24-cv-00145**
Plaintiff,	*	
	*	
VERSUS	*	**JUDGE BRANDON S. LONG**
	*	
RANDY SMITH, CHANCE CLOUD, CURTIS	*	
FINN, TAYLOR LEWIS, DOUGLAS SEARLE,	*	
JEFFREY BOEHM, GEORGE COX,	*	**MAG. JUDGE**
RICHARD PALMISANO, DALE GALLOWAY,	*	**MICHAEL NORTH**
FRANK FRANCOIS, JR., JUSTIN PARKER,	*	
JEREMY CHURCH, DENISE MANCUSO	*	
JEANINE BUCKNER, MICHAEL SEVANTE,	*	
JOHN DOE CUSTODIAN(S), AND	*	**JURY DEMAND**
ONEBEACON INSURANCE GROUP	*	
	*	
Defendants,	*	

NOTICE OF MANUAL ATTACHMENT

EXHIBIT "1" TO MOTION TO DISMISS

(body camera footage of Chance Cloud)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRUCE WASHINGTON,	*	**CIVIL ACTION NO. 2:24-cv-00145**
Plaintiff,	*	
	*	
VERSUS	*	**JUDGE BRANDON S. LONG**
	*	
RANDY SMITH, CHANCE CLOUD, CURTIS	*	
FINN, TAYLOR LEWIS, DOUGLAS SEARLE,	*	
JEFFREY BOEHM, GEORGE COX,	*	**MAG. JUDGE**
RICHARD PALMISANO, DALE GALLOWAY,	*	**MICHAEL NORTH**
FRANK FRANCOIS, JR., JUSTIN PARKER,	*	
JEREMY CHURCH, DENISE MANCUSO	*	
JEANINE BUCKNER, MICHAEL SEVANTE,	*	
JOHN DOE CUSTODIAN(S), AND	*	**JURY DEMAND**
ONEBEACON INSURANCE GROUP	*	
	*	
Defendants,	*	

NOTICE OF MANUAL ATTACHMENT

EXHIBIT "2" TO MOTION TO DISMISS

(body camera footage of Taylor Lewis)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRUCE WASHINGTON,	*	**CIVIL ACTION NO. 2:24-cv-00145**
Plaintiff,	*	
	*	
VERSUS	*	**JUDGE BRANDON S. LONG**
	*	
RANDY SMITH, CHANCE CLOUD, CURTIS	*	
FINN, TAYLOR LEWIS, DOUGLAS SEARLE,	*	
JEFFREY BOEHM, GEORGE COX,	*	**MAG. JUDGE**
RICHARD PALMISANO, DALE GALLOWAY,	*	**MICHAEL NORTH**
FRANK FRANCOIS, JR., JUSTIN PARKER,	*	
JEREMY CHURCH, DENISE MANCUSO	*	
JEANINE BUCKNER, MICHAEL SEVANTE,	*	
JOHN DOE CUSTODIAN(S), AND	*	**JURY DEMAND**
ONEBEACON INSURANCE GROUP	*	
	*	
Defendants,	*	

NOTICE OF MANUAL ATTACHMENT

EXHIBIT "3" TO MOTION TO DISMISS

(body camera footage of Curtis Finn)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

BRUCE WASHINGTON,	*	**CIVIL ACTION NO. 2:24-cv-00145**
Plaintiff,	*	
	*	
VERSUS	*	**JUDGE BRANDON S. LONG**
	*	
RANDY SMITH, CHANCE CLOUD, CURTIS	*	
FINN, TAYLOR LEWIS, DOUGLAS SEARLE,	*	
JEFFREY BOEHM, GEORGE COX,	*	**MAG. JUDGE**
RICHARD PALMISANO, DALE GALLOWAY,	*	**MICHAEL NORTH**
FRANK FRANCOIS, JR., JUSTIN PARKER,	*	
JEREMY CHURCH, DENISE MANCUSO	*	
JEANINE BUCKNER, MICHAEL SEVANTE,	*	
JOHN DOE CUSTODIAN(S), AND	*	**JURY DEMAND**
ONEBEACON INSURANCE GROUP	*	
	*	
Defendants,	*	

NOTICE OF SUBMISSION

PLEASE TAKE NOTICE that Defendants, Randy Smith, Jeffrey Boehm, George Cox, Dale Galloway, Frank Francois, Jr., Chance Cloud, Taylor Lewis, Curtis Finn, Douglas Searle, Justin Parker, Denise Mancuso, Jeanine Buckner, Michael Sevante, Jeremy Church and Michael Ripoll, Jr., will submit their Motion to Dismiss before the Honorable Brandon S. Long of the United States District Court for the Eastern District of Louisiana, on the 30th day of October, 2024 at 10:00 a.m..

Respectfully submitted,

MILLING BENSON WOODWARD L.L.P.

s/ Andrew R. Capitelli
ANDREW R. CAPITELLI, T.A. # 31649
KENNETH R. WHITTLE # 38640
NICHOLAS P. ISOLANI # 40831
PAIGE S. STEIN # 40954
68031 Capital Trace Row
Mandeville, LA 70471
Telephone: (985) 292-2000
Facsimile: (985) 292-2001
acapitelli@millinglaw.com
kwhittle@millinglaw.com
nisolani@millinglaw.com
pstein@millinglaw.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing was electronically filed with the Clerk of Court of the United States District Court for the Eastern District of Louisiana on October 4, 2024, by using the CM/ECF system, which system will send a notice of electronic filing to appearing parties in accordance with the procedures established. Any unrepresented parties appearing are being sent a copy of the above and foregoing through the U.S. Mail, postage prepaid and properly addressed, on October 4, 2024.

s/ Andrew R. Capitelli
Andrew R. Capitelli