

**IN THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT  
OF TEXAS HOUSTON DIVISION**

**JEROME BARTEE, JR.**  
**Plaintiff,**

**VS.**

**HARRIS COUNTY, ET AL**  
**Defendant**

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§

**CIVIL ACTION NO. 4:16:CV:02944**

**JURY DEMANDED**

**DEFENDANT ORIGINAL ANSWER TO THE SECOND AMENDED COMPLAINT OF  
PLAINTIFF JEROME BARTEE, JR.**

**TO THE COURT:**

Defendant **JOSHUA DEGLER, IN HIS INDIVIDUAL AND OFFICIAL CAPACITY** (“**Degler**”), files this original answer to Plaintiff Jerome Bartee, Jr.’s (“**Bartee**”) Second Amended Original Complaint, and states as follows:

**RESPONSIVE PLEADINGS**

Responding to each numbered paragraph of Plaintiff’s First Amended Original Complaint.

1. With respect to Bartee’s ¶1, Degler admits.
2. With respect to Bartee’s ¶2, Degler denies these allegations.
3. With respect to Bartee’s ¶3, Degler is without sufficient knowledge to admit or deny the allegations relating to alleged injuries and denies a violation of constitutional rights under color of state law.
4. With respect to Bartee’s ¶4, Degler is without sufficient facts or knowledge to admit or deny.
5. With respect to Bartee’s ¶5, is directed to Harris County and requires no response by Degler.

6. With respect to Bartee's ¶6, To the extent a response is required, Degler admits he has been added as a defendant in the pending litigation.
7. With respect to Bartee's ¶7, Degler admits the suit arises under the Constitution of the United States (particularly the Fourteenth Amendment) and 42 U.S.C section 1983.
8. With respect to Bartee's ¶8, Degler admits the Plaintiff respectfully demands a trial by jury.
9. With respect to Bartee's ¶9, Degler admits that this Court has jurisdiction over the claims raised in this complaint under 42 U.S.C. §1983, and 1988 and 28 U.S.C. §1331.
10. With respect to Bartee's 10, Degler admits that venue is proper pursuant to 28 U.S.C. §1391.
11. With respect to Bartee's ¶11, is directed to Harris County and requires no response from Degler.
12. With respect to Bartee's ¶12, is directed to Defendant Andrew Rowell and requires no response from Degler.
13. With respect to Bartee's ¶13, this is directed to Jeremy Ringle and requires no response by Defendant Degler..
14. With respect to Bartee's ¶14, this is directed to Salvador Garibay and requires no response by Defendant Degler..
15. With respect to Bartee's ¶15 this is directed to Defendant Danny Meece and requires no response by Degler.
16. With respect to Bartee's ¶16 Degler admits a, b, e, and is alleged he was a participant in the incident made the basis of this lawsuit (c).  
C,
17. With respect to Bartee's ¶17 this is directed to Defendant Abraham Romero and requires no response by Degler.
18. With respect to Bartee's ¶18 this is directed to Defendant Hunter Harrison and requires no response by Degler.

19. With respect to Bartee's ¶19, this is directed to Defendant John Payne and requires no response by Degler.
20. With respect to Bartee's ¶20, this is directed to Defendant Micaela Martinez and requires no response by Degler.
21. With respect to Bartee's ¶21, this is directed to Defendant Giovana Campos and requires no response by Degler.
22. With respect to Bartee's ¶22 thru 25 are directed to Harris County and requires no response from Degler.
26. With respect to Bartee's ¶26, Degler admits a and b. Denies c.
27. With respect to Bartee's ¶27, it is admitted that on the evening of September 4, 2016 Rowell attempted to escort Bartee out of the medical clinic and into a medical hold over cell. It is admitted that the detention officers and deputies assisted in restraining Bartee, who was resisting. All other allegations are denied.
28. With respect to Bartee's ¶28, this paragraph is directed to Defendant Jeremy Ringle and requires no response from Degler.
29. With respect to Bartee's ¶29, Defendant Degler denies paragraph 29.
30. With respect to Bartee's ¶30 Defendant Degler lacks sufficient Knowledge or facts to admit or deny.
31. With respect to Bartee's 31 Defendant Degler denies allegation
32. With respect to Bartee's 32, Defendant Degler denies paragraph 32.
33. With respect to Bartee's ¶33 Defendant Degler lacks sufficient facts or knowledge to admit or deny.
34. With respect to Bartee's ¶34 Defendant Degler is without sufficient facts to admit or deny the allegations.

35. With respect to Bartee's ¶35 Defendant Degler denies the allegations in paragraph 35.
36. With respect to Bartee's ¶36, this paragraph is directed to Harris County only and requires no response from Degler..
37. With respect to Bartee's ¶37, this paragraph is directed to Harris County and requires no response from Degler.
- 38/49. With respect to Bartee's ¶38/49, is directed to Harris County and Degler is without sufficient facts or knowledge to admit or deny.
- 50/51. With respect to Bartee's ¶50/51, this is directed to Harris County and requires no response from Degler.
52. With respect to Bartee's ¶52, this is directed to Harris County and requires no response from Degler.
53. With respect to Bartee's ¶53 this is directed to Harris County and requires no response from Degler.
- 54, 55,56. With respect to Bartee's ¶54, 55,56, this is directed to Harris County and requires no response from Degler.
57. With respect to Bartee's ¶57, this is directed to Harris County and requires no response from Degler.
58. With respect to Bartee's ¶58, this is directed to Harris County and requires no response from Degler.
59. With respect to Bartee's ¶59, this is directed to Harris County and requires no response from Degler.
60. With respect to Bartee's ¶60, Degler is without facts or knowledge to admit or deny.
61. With respect to Bartee's ¶61, Degler is without facts or knowledge to admit or deny.
62. With respect to Bartee's ¶62 Degler admits.

63. With respect to Bartee's ¶63, it is admitted that there was a video recording of the incident. All other allegations are denied.

64. With respect to Bartee's ¶64, Degler admits that he was wearing a blue shirt and other officers were wearing white shirts and a special detention officer was wearing fatigues. All other allegations are denied

65. With respect to Bartee's ¶65 Degler denies the allegations in paragraph 65.

66. With respect to Bartee's ¶66, Degler is without sufficient facts or knowledge to admit or deny these allegations.

67/68. With respect to Bartee's ¶67/68, Defendant Degler is without facts or knowledge to admit or deny.

69. With respect to Bartee's ¶69, Degler admits that a conference was held by Sheriff Hickman on or about September 7, 2016. Degler is without sufficient facts or knowledge of the press conference to admit or deny all other allegations in paragraph 69,

70. With respect to Bartee's ¶70, (a-b) is directed to Harris County and does not require a response form Degler.

71. With respect to Bartee's ¶71, is not directed to Degler and does not require a response. To the extent it does Degler is without sufficient facts and information to admit or deny.

72. With respect to Bartee's ¶72, Degler does not recall the exact date that Bartee was released from the Harris County Jail and lacks sufficient facts and knowledge to admit or deny.

73. With respect to Bartee's ¶73, Degler is without sufficient facts or knowledge to admit or deny.

74/75 (ab). With respect to Bartee's ¶74/75 (ab), Degler is without sufficient facts or knowledge to admit or deny the allegations concerning the basis of dismissal of criminal charges against Bartee.

76 (a-e). With respect to Bartee's ¶76 (a-e), Degler denies that he is guilty of any unlawful conduct or that he acted with deliberate indifference to Bartee's rights. Degler denies the allegations in paragraph 76.

77. With respect to Bartee's ¶77, Degler admits the allegation in paragraph 77.

78. With respect to Bartee's ¶78, Degler denies the allegation in paragraph 78.

79. With respect to Bartee's ¶79, Degler denies the allegations in paragraph 79.

80(a-b). With respect to Bartee's ¶80 (a-b), Degler denies the allegations in paragraph 80 (a-b)

81. With respect to Bartee's ¶81, Degler is without sufficient facts or knowledge concerning the details of Bartee's medical treatment and is unable to admit or deny these allegations.

82. With respect to Bartee's ¶82 Degler is without sufficient facts or knowledge to admit or deny when Bartee was discharged from the hospital.

83. With respect to Bartee's ¶83 Degler is without sufficient facts or knowledge photo of Bartee before and after the surgery.

84, 85, 86. With respect to Bartee's ¶84, 85,86, Degler is without sufficient facts or knowledge to admit or deny the allegations contained in paragraph 84, 85, 86.

87. With respect to Bartee's ¶87 does not require a response. To the extent it does it denied.

88. With respect to Bartee's ¶88 Degler admits.

89. With respect to Bartee's ¶89 (a-c) Degler admits. 89 (b) is denied.

90. With respect to Bartee's ¶90 Degler denies the allegations in paragraph 90.

91. With respect to Bartee's ¶91 Degler denies the allegations in paragraph 91.

92. With respect to Bartee's ¶92 Degler denies the allegations in paragraph 92.

93. With respect to Bartee's ¶93 Degler is without sufficient facts or knowledge to admit or deny.

94. With respect to Bartee's ¶94 Degler denies the allegations in paragraph 94.

95. With respect to Bartee's ¶95 Degler is without sufficient facts or knowledge to admit or deny.
96. With respect to Bartee's ¶96 Paragraph 96 does require a response. To the extent it does it is denied.
97. With respect to Bartee's ¶97 (a-c) Degler admits constitutional rights are secured by the Fourteenth Amendment to the United States Constitution. Degler denies he violated Bartee's secured rights 97 (b).
98. With respect to Bartee's ¶98 Degler denies the allegations in paragraph 98.
99. With respect to Bartee's ¶99 Degler denies the allegations in paragraph 99.
100. With respect to Bartee's ¶100 (a-d) Degler denies the allegations in paragraph 100.
101. With respect to Bartee's ¶101 Degler denies (a-b-c-d-e-g). (f) calls for a legal conclusion determination and Degler cannot admit or deny.
102. With respect to Bartee's ¶102 Degler denies the allegations in paragraph 102.
103. With respect to Bartee's ¶103 (a-h) Degler denies the allegations in paragraph 103.
104. With respect to Bartee's ¶104 (a-e) Degler denies the allegations in paragraph 104.
105. With respect to Bartee's ¶105 Paragraph 105 does not require a response. To the extent it does it is denied.
106. With respect to Bartee's ¶106 (a-c) is directed to Meece and requires no response from Degler.
107. With respect to Bartee's ¶107(a-h) is directed to Meece and requires no response from Degler.
108. With respect to Bartee's ¶108 (a-f) is directed to Meece and requires no response from Degler.

109. With respect to Bartee's ¶109 (a-f) is directed to Meece and requires no response from Degler.

110. With respect to Bartee's ¶110 (a-d) is directed to Meece and requires no response from Degler.

111. With respect to Bartee's ¶111 a-h) to the extent it is directed to Degler(a-b-c-d-g-h) are denied. As to (e) it call for a legal conclusion and Degler lacks sufficient facts or knowledge to admit or deny, As to (f) it is directed to Meece and requires no response from Degler.

112. With respect to Bartee's ¶112 (a-e) is directed to Meece and requires no response from Degler.

113. With respect to Bartee's ¶113 (a-e) is directed to Meece and requires no response from Degler.

114-153. With respect to Bartee's ¶114-153, these paragraphs are directed to Harris County only and require no response from Degler.

154. With respect to Bartee's 154 Degler lacks sufficient facts or knowledge to determine to admit or deny.

155. With respect to Bartee's 155 Degler denies the allegations in paragraph 155.

156. With reference to 156 Degler denies the allegations in paragraph 156'

To the extent a response to Plaintiff's Prayer For Relief is required it is denied.

#### **AFFIRMATIVE DEFENSES**

1. Official/Qualified Immunity: Defendant Degler pleads and claims that he is entitled to official immunity and to qualified immunity as a defense to all claims against him form the basis of Plaintiff's claims.
2. Bartee's conduct was the sole cause or proximate cause, of the incident which forms the basis of Plaintiff's claims.



3. Contributory Negligence: Defendant Degler hereby pleads the application of the defense of contributory negligence as a defense.
4. Plaintiff has failed to state a claim upon which relief can be granted.
5. Defendant Degler reserves the right to assert other affirmative defenses as discovery, if any may show.

**JURY REQUEST**

Degler hereby demands a trial by jury.

**PRAYER**

Therefore, Joshua Degler prays that upon final hearing, Plaintiff Jerome Bartee take nothing against him by reason of her suit; that he receive judgment in his favor; that he recover his costs; and that he has such other and further relief to which he may be justly entitled at law and/or equity.

Respectfully submitted,

OF COUNSEL:

VINCE RYAN  
HARRIS COUNTY ATTORNEY

/s/ Jim Charles Ezer  
JIM CHARLES EZER  
Federal I.D. No. 3322  
State Bar No. 06765000  
Assistant County Attorney  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002  
Telephone: (713) 274-5349  
Facsimile: (713) 755-8924  
[Jim.Ezer@cao.hctx.net](mailto:Jim.Ezer@cao.hctx.net)

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been served upon all counsel by record through electronic service (Pacer) on the 15<sup>th</sup> day of August, 2017.

/s/ Jim Charles Ezer  
JIM CHARLES EZER