

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

AARON TOBEY,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 3:11cv154-HEH
)	
JANET NAPOLITANO, et al.)	
)	
Defendants.)	

**ANSWER AND AFFIRMATIVE DEFENSES
TO SECOND AMENDED COMPLAINT FILED NOVEMBER 29, 2011**

Defendants Trice, Vann, Mason and Kandler (collectively, the “Defendant Officers”), in their individual capacities, by counsel, state for their Answer and Affirmative Defenses to the Second Amended Complaint filed on November 29, 2011, as follows:

ANSWER

Preliminary Statement

The Defendant Officers incorporate their responses to Plaintiff’s First and Second Amended Complaints¹ (Docket Nos. 30 and 64 respectively) except as follows:

- 7. Removed.
- 8. Removed.
- 10. Defendant Officers admit the allegations set forth in paragraph 10.
- 11. The Defendant Officers admit the first two sentences of paragraph 11.

The Defendant Officers state that Trice was Chief of the RIC Police and had some management, direction and supervisory responsibilities of the Police employed by the

¹ The Second Amended Complaint was initially filed on October 7, 2011.

Commission and some responsibilities with respect to programs, policies, practices and procedures over police employed by the Commission with respect to supervision and interaction of such police with other agencies. The last two sentences in paragraph 11 are legal conclusions and require no response, however, to the extent a response is required, the Defendant Officers deny any liability. The Defendant Officers deny any allegations inconsistent herewith.

70. The Defendant Officers incorporate their response to paragraph 70 set forth in their Answer to Plaintiff's First Amended Complaint.

85. The Defendant Officers incorporate their response to paragraph 85 set forth in their Answer to Plaintiff's First Amended Complaint.

86. The Defendant Officers incorporate their response to paragraph 86 set forth in their Answer to Plaintiff's First Amended Complaint.

87. The Defendant Officers incorporate their response to paragraph 87 set forth in their Answer to Plaintiff's First Amended Complaint.

89. The Defendant Officers incorporate their response to paragraph 89 set forth in their Answer to Plaintiff's First Amended Complaint.

100. Removed.

106. Removed.

113. Removed.

Prayer For Relief

The Defendant Officers deny that plaintiff is entitled to any relief against them and pray that all claims as to them be dismissed with prejudice.

AFFIRMATIVE DEFENSES

1. The Commission employees sued in their individual capacities are immune from the federal and state law claims under the doctrine of qualified immunity.
2. The Defendants Officers acted with probable cause.
3. Plaintiff's alleged damages are caused by Plaintiff's conduct and/or the conduct of others and not the conduct of the Defendant Officers.

Respectfully Submitted,

QUENTON TRICE, ANTHONY MASON,
CALVIN VANN, and JEFFREY
KANDLER

/s/ Belinda D. Jones

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CERTIFICATE OF SERVICE

I hereby certify that on the 9th day of December, 2011, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to all counsel of record, including:

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