No. 24-2207

IN THE UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

Renee Kay Martin, Parent,
individually and on behalf of TRL and on behalf of BRW
Appellant,
v.
Kelan Gourneau, In his individual and official capacity, et al.,
Appellees

Appeal from the United States District Court
for the District of North Dakota – Eastern Division
Case No. 3:22-cv-00136-PDW

APPELLEES JOSEPH KAUFMAN, WILLIAM POITRA, JAYDE SLATER, NATHAN GUSTAFSON, TRENTON GUNVILLE, ANDREW SAARI JR., AND MITCHELL SLATER BRIEF ON APPEAL

Lawrence E. King
King Law PC
Attorneys for Joseph Kaufman, William Poitra, Jayde Slater, Nathan Gustafson, Trenton Gunville, Andrew Saari Jr., and Mitchell Slater
101 Slate Drive, Suite 4
Bismarck, ND 58503
701-712-2676
LKing@KingLawND.com

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A. Basis for the District Court's subject matter jurisdiction

The Federal District Court for the District of North Dakota had subject matter jurisdiction over Martin's claims against Joseph Kaufman (Rolette County Chief of Police), William Poitra (Rolla Chief of Police), Jayde Slater (Rolla Police Officer), Nathan Gustafson (Rolette County Sheriff), Trenton Gunville (Rolette County Sheriff's Deputy), Andrew Saari Jr. (Rolette County Sheriff's Deputy), and Mitchell Slater (Rolette County Sheriff's Chief Deputy), (hereinafter referred to jointly as city and county defendants) under 42 U.S.C. §1983.

B. Basis for 8th Circuit Court of Appeals jurisdiction

The United States Court of Appeals for the 8th Circuit has jurisdiction over this appeal pursuant to 28 U.S.C. §1343 as it involves claims asserted under 42 U.S.C. §1985.

C. Filing Dates

Judgment of dismissal was entered by the district court on April 16, 2024. (R. Doc. 96). Notice of appeal was filed on June 12, 2024. (R. Doc. 98).

D. Final Order of Judgment

The district court issued a final order of judgment of dismissal disposing of all claims on April 16, 2024. (R. Doc. 96).

STATEMENT OF THE ISSUES

Whether the district court correctly dismissed Martin's 42 U.S.C. §1983 claims against the individual city and county defendants because Martin failed to allege what each individual city and county defendant did through their own acts that violated the Constitution. *Weiland v. Palm Beach Cty. Sheriff's Office*, 792 F.3d 1313, 1323 (11th Cir. 2015); *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

STATEMENT OF THE CASE

On August 23, 2020, Brandon Laducer ("Laducer") was shot and killed by law enforcement officers on the Turtle Mountain Reservation. Prior to his death, as the complaint acknowledges, Laducer was involved in "an incident" that occurred off reservation in neighboring Bottineau County. (R. Doc. 1, at 10). Plaintiff Renee Kay Martin, Laducer's mother, initiated this lawsuit on August 22, 2022, asserting various claims against federal defendants and state defendants, and asserting a §1983 action against the city and county defendants. (R. Doc. 1, at 10). The city and county defendants filed a motion to dismiss on May 24, 2023. (R. Doc. 68). On February 28, 2024, United States Magistrate Judge Senechal issued a Report and Recommendation that, among other things, recommended granting the city and county defendants' motion to dismiss. (R. Doc. 89). The Report and Recommendation outlined a thorough and detailed 30-page analysis of the legal issues raised by the complaint. Martin objected to the Report and Recommendation

on March 13, 2024. (R. Doc. 90). Chief Judge Welte issued an order adopting the Report and Recommendation on April 16, 2024. (R. Doc. 95). The pro se plaintiff filed an "Application to Proceed Without Prepaying Fees or Costs" on June 11, 2024, which this court accepted as a substantive notice of appeal in this matter. (R. Doc. 98).

SUMMARY OF THE ARGUMENT

The district court correctly dismissed Martin's §1983 claims against the individual city and county defendants because Martin failed to allege what each individual defendant did through their own acts that violated the Constitution. Since Martin's substantive claims against the individual defendants were dismissed, the claims against the municipalities failed as well.

LEGAL ARGUMENT

This circuit has outlined the standard of review on appeal on dismissal for failure to state a claim.

> It is settled in this circuit that "[w]hether a complaint states a cause of action is a question of law which we review on appeal de novo." *Morton v. Becker*, 793 F.2d 185, 187 (8th Cir.1986). We assume that well-pleaded factual allegations in the complaint are true "and construe the complaint, and all reasonable inferences arising therefrom, most favorably to the pleader." *Id*. We do not, however, blindly accept the legal conclusions drawn by the pleader from the facts. *Morgan v. Church's Fried Chicken*, 829 F.2d 10 (6th Cir. 1987); 5 C. Wright & A. Miller, *Federal Practice and Procedure* § 1357, at 595-97 (1969). After so construing the complaint, we should affirm the granting of a 12(b)(6) motion only if "it appears beyond doubt that the plaintiff can prove no

set of facts which would entitle him to relief." *Morton*, 793 F.2d at 187. *Westcott v. City of Omaha*, 901 F.2d 1486, 1488 (8th Cir. 1990).

Complaints failing to state a claim include those asserting "multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against." *Weiland v. Palm Beach Cty. Sheriff's Office*, 792 F.3d 1313, 1323 (11th Cir. 2015). These types of complaints "fail . . . to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests." *Id*. The plaintiff asserted §1983 claims against the city and county defendants in their individual and official capacities.

Even construed liberally, Martin's claims against the city and county defendants fail to state a claim for relief in their individual capacity. The plaintiff's complaint exemplified the broad pleading criticized in *Weiland*. In *Weiland*, the court identified categories of broad pleadings, one of which is "a complaint that 'assert[s] multiple claims against multiple defendants without specifying which of the defendants are responsible for which acts or omissions, or which of the defendants the claim is brought against.'" *Weiland*, 792 F.3d at 1321-23. "The unifying characteristic of all types of shotgun pleadings is that they fail to one degree or another, and in one way or another, to give the defendants adequate notice of the claims against them and the grounds upon which each claim rests." *Id*. at 1323. Here,

Martin's complaint, without a doubt, falls into the *Weiland* category. Specifically, Martin groups Kaufman, Gustafson, J. Slater, Gunville, M. Slater, Saari, and Poitra with all the other named officers in the FBI, BIA, Rolette County Sheriff's Department, and Rolla Police Department and alleged they collectively violated 42 U.S.C. §1983, for deprivation of civil rights. (R. Doc. 1 at 3).

Martin failed to differentiate the allegations and inform each defendant separately of the allegations surrounding his or her alleged participation. A §1983 claim requires showing that Kaufman, Gustafson, J. Slater, Gunville, M. Slater, Saari, and Poitra separately 1) acted under color of state law; and 2) deprived the plaintiff of rights secured by the Constitution. *Brown v. Linder*, 56 F.4th 1140, 1143 (8th Cir. 2023). While courts construe pro se complaints liberally, the plaintiff's complaint failed to allege sufficient facts to support a §1983 claim against each city and county defendant. *Stringer v. St. James R-1 School Dist.*, 446 F.3d 799, 802 (8th Cir. 2008).

Further, an official sued in an individual capacity can only be liable for money damages if a plaintiff shows the official was directly and personally involved in the constitutional violation. *See e.g.*, *S.M. v. Krigbaum*, 808 F.3d 335, 340 (8th Cir. 2015) ("Government officials are personally liable only for their own misconduct."); *Dahl v. Weber*, 580 F.3d 730, 733 (8th Cir. 2009) ("Section 1983 liability is personal. To recover §1983 damages from [defendant] individually, [plaintiff] must show that

[defendant] was personally involved in, or directly responsible for, [plaintiff's] prolonged incarceration[.]").

Here, neither Kaufman, Gustafson, J. Slater, Gunville, M. Slater, Saari, nor Poitra were mentioned in Martin's statement of claims to have been directly and personally involved in a constitutional violation. Further, the complaint contained no allegations that each defendant violated Laducer's rights secured by the Constitution. (R. Doc. 1, at 10). No facts were set forth in the complaint giving each defendant "fair notice of what the . . . claim is and the grounds upon which it rests." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007).

Put simply, Martin's complaint did not indicate "who is alleged to have done what to whom" and thus is unable "to provide each individual with fair notice as to the basis of the claims against him or her, as distinguished from collective allegations against the state." *Robbins v. Oklahoma*, 519 F.3d 1242, 1249-50 (10th Cir. 2008); *see* also *Lanman v. Hinson*, 529 F.3d 673, 684 (6th Cir. 2008). Thus, dismissal of these individuals on failure to allege personal participation was warranted.

In this matter, the district court noted that the plaintiff must allege that each defendant, through their own actions, violated the Constitution. (R. Doc. 89, at 24). In analyzing this issue the district court specifically noted:

> As the city and county defendants contend, Martin's complaint does not allege what each city and county defendant personally did, or did not do, that caused a violation of her son's constitutional rights. Instead, Martin makes an allegation against defendants as a group—she alleges

> BIA and Rolette County officers shot and killed her son, though she notes BIA Officer Parisien "delivered the deadly shot to [her son's] heart." (Doc. 1, p. 10). The complaint makes no specific factual allegations against any of the individual city and county defendants. In fact, other than naming each as a defendant, Martin's complaint does not mention any of the city or county defendants individually.

(R. Doc. 89, at 24-25).

The district court correctly determined that the Martin's §1983 suit failed to state a claim and should be dismissed.

Qualified immunity is analyzed under a two-pronged test. Qualified immunity shields a government official from liability unless (1) the official's conduct violated a statutory or constitutional right; and (2) the right was clearly established at the time of the conduct at issue. *See Ashcroft v. al-kidd*, 531 U.S. 731, 735 (2011) (*quoting Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). In light of the fact that both prongs must be present to defeat defendant's assertion of qualified immunity, the district court had discretion to not address both prongs if one prong demonstrated the defendant's entitlement to qualified immunity. *Pearson v. Callahan*, 555 U.S. 223, 236-37 (2000). As such, the district court concluded "because Martin failed to state a plausible claim against any city or county defendant individually, each is entitled to qualified immunity, and consideration of whether any constitutional right was clearly established at the time of the incident is not necessary." (R. Doc. 89, at 26).

As the Court is aware, §1983 suits against local government employees, in their official capacities, are actually suits against the entity of which the employees

are agents. *Monell v. Dept. of Soc. Serv.*, 436 U.S. 658, 690 n.55 (1978). "In order for municipal liability to attach, individual liability first must be found on an underlying substantive claim." *McCoy v. City of Monticello*, 411 F.3d 920, 922 (8th Cir. 2005). In light of the fact that Martin was unable to state a plausible underlying substantive claim against any of the individual city or county defendants, the municipalities that employ each of those defendants cannot be held liable. As such, the district court correctly dismissed the official capacity claims against the city and county defendants.

CONCLUSION

For the reasons stated above the district court's dismissal of Martin's claims against the city and county defendants should be affirmed.

Dated this 4th day of October, 2024.

Lawrence E. King
King Law PC
Attorneys for Joseph Kaufman, William Poitra, Jayde Slater, Nathan Gustafson, Trenton Gunville, Andrew Saari Jr., and Mitchell Slater
101 Slate Drive, Suite 4
Bismarck, ND 58503
701-712-2676
LKing@KingLawND.com

By: /s/ Lawrence E. King
Lawrence E. King (ND ID# 04997)

CERTIFICATE OF COMPLIANCE WITH TYPE-VOLUME LIMIT

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The electronic version of this Brief filed with the Court complies with this Court's Local Rule 25A because it has been submitted in Portable Document Format (PDF), which was generated by printing to PDF from the original word processing file so that the electronic version may be searched and copied.

Dated this 4th day of October, 2024.

Lawrence E. King
King Law PC
Attorneys for Joseph Kaufman, William Poitra, Jayde Slater, Nathan Gustafson, Trenton Gunville, Andrew Saari Jr., and Mitchell Slater
101 Slate Drive, Suite 4
Bismarck, ND 58503
701-712-2676
LKing@KingLawND.com

By: /s/ Lawrence E. King
Lawrence E. King (ND ID# 04997)

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that, with respect to the foregoing:

1. All required privacy redactions have been made per 8th Cir. R. 25A(i).

2. If required to file additional hard copies, the ECF submission is an exact copy of those documents.

3. The digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program – ESET Endpoint Security and, according to the program, are free of viruses.

Dated this 4th day of October, 2024.

Lawrence E. King
King Law PC
Attorneys for Joseph Kaufman, William Poitra, Jayde Slater, Nathan Gustafson, Trenton Gunville, Andrew Saari Jr., and Mitchell Slater
101 Slate Drive, Suite 4
Bismarck, ND 58503
701-712-2676
LKing@KingLawND.com

By: /s/ Lawrence E. King
Lawrence E. King (ND ID# 04997)

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing Appellees' Joseph Kaufman, William Poitra, Jayde Slater, Nathan Gustafson, Trenton Gunville, Andrew Saari Jr., and Mitchell Slater Brief on Appeal with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the appellate CM/ECF system on October 2, 2024.

I certify that counsel for Kelan Gourneau, Michael Slater, Evan Parisien, Earl Charbonneau, Reed Mesman, Heather Baker, and Craig Zachmeier are registered CM/ECF users and that service will be accomplished by this Court's CM/ECF system.

I also hereby certify that upon notification that Appellees' Brief has been filed, I will file with the Clerk of Court ten (10) paper copies of Appellees' Brief by sending them to the Court via Federal Express.

I also hereby certify that, upon notification that Appellees' Brief has been filed, I will send one (1) paper copy of Appellees' Brief to Appellant by sending it via U.S. Mail to the address listed on the Court's CM/ECF System.

Dated this 4th day of October, 2024.

Lawrence E. King
King Law PC
Attorneys for Joseph Kaufman, William Poitra, Jayde Slater, Nathan Gustafson, Trenton Gunville, Andrew Saari Jr., and Mitchell Slater
101 Slate Drive, Suite 4
Bismarck, ND 58503
701-712-2676
LKing@KingLawND.com

By: /s/ Lawrence E. King
Lawrence E. King (ND ID# 04997)