

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAVID SCHIED,

Plaintiff,

-v-

KAREN KAHLIL, et al.,

Defendants.

Case No. 2:15-cv-11840

Hon. Sean F. Cox

Mag. Judge Michael J. Hluchaniuk

**REPLY IN SUPPORT OF MOTION TO DISMISS
BY DEFENDANT WAYNE COUNTY**

INTRODUCTION

In the Complaint, *pro se* Plaintiff David Schied (“Plaintiff”) alleges that Defendant Wayne County violated his constitutional rights under 42 U.S.C. § 1983 by failing to investigate, and to warn the public about, 17th District Court Judge Karen Kahlil. As explained in the principal motion, Plaintiff cannot state a claim for a *Monell* violation or under the state-created danger doctrine. Additionally, Wayne County does not exercise administrative control over the 17th District Court or Judge Kahlil. Plaintiff’s overlength 59-page Response largely fails to address these arguments with any substance. Instead, Plaintiff proffers a series of new allegations directed primarily at his various habeas proceedings. Even if the Court were to consider any of these new, unplead claims, none of them state a plausible claim against Wayne County.

ARGUMENT

A. Wayne County Did Not Intend to “Mislead” the Court About Plaintiff’s State Court Habeas Corpus Proceedings.

In its principal motion, Wayne County included background details about the three habeas proceedings (Midland County Circuit Court, Wayne County Circuit Court, and the United States District Court) initiated by an individual named “Patricia Kraus” on behalf of Plaintiff. Plaintiff asserts that counsel for Wayne County attempted to mislead the Court by not including details regarding a habeas case filed by “Cornell Squires” on June 12, 2012, on Plaintiff’s behalf in Midland County Circuit Court.

At the time of the motion filing, counsel for Wayne County was unaware of the existence of this case – because it was not filed by either Plaintiff or Ms. Kraus. (Exhibit 8, Squires Docket). In any event, the Midland County Circuit Court also appears to have dismissed Mr. Squires’ request for a writ for Plaintiff on July 19, 2012, for the party’s failure to appear at the July 16, 2012 hearing. (*Id.*).

B. To the Extent that Plaintiff Alleges Misconduct by the Midland County Circuit Court, 17th District Court, the Federal Court, or the Wayne County Circuit Court, Wayne County Does Not Administer or Control These Entities.

Although not alleged against Wayne County in his Complaint, to the extent that Plaintiff alleges misconduct by Midland County Circuit Court Judges Jonathan Lauderbach and Michael Beale, the 17th District Court (City of Redford

Township), the Honorable Denise Page Hood of the United States District Court for the Eastern District of Michigan, or Wayne County Circuit Court Judge Ulysses Boykin, none of these state claims against Wayne County.

First, Plaintiff fails to offer any plausible allegations regarding how Wayne County has any control over the Midland County Circuit Court, the 17th District Court, or the Eastern District of Michigan.

Second, under Michigan law, Wayne County does not employ, supervise, or control Wayne County Circuit Court Judge Ulysses Boykin, as circuit courts are arms of the state judiciary, and not local government. *See, e.g., Pucci v. Nineteenth District Court*, 628 F.3d 752, 762 (6th Cir. 2010) (“Thus it is the *state* legislature that establishes and defines the authority of the district courts, and it is the *state* supreme court that exercises supervisory and administrative control over these district courts”) (emphases in original); *Judicial Attorneys Ass’n v. State*, 586 N.W.2d 894, 897 (Mich. 1998) (“Despite the complications of the trial court environment, the case law, taken as a whole, has come to strongly affirm that the fundamental and ultimate responsibility for all aspects of court administration, including operations and personnel matters within the trial courts, resides within the inherent authority of the judicial branch”).

If Plaintiff disagreed with the conduct of the Midland County Circuit Court, the 17th District Court, or the Wayne County Circuit Court, he had a variety of

remedies, including but not limited to, filing an appeal of those decisions and/or filing a complaint with the Judicial Tenure Commission. However, because Wayne County does not control or supervise these courts or their respective judicial officers, Plaintiff cannot state a claim upon which relief can be granted.

C. Plaintiff Cannot State a Plausible Claim Under *Monell* or the State Created Danger Doctrine.

Other than labeling Wayne County's arguments "laughable," Plaintiff fails to allege any plausible claims that: (1) any individual controlled or supervised by Wayne County (as opposed to employees of third parties) violated his constitutional rights; and (2) the constitutional violation was the result of a Wayne County custom, policy or procedure. Therefore, Plaintiff fails to state a cognizable § 1983 *Monell* claim against Wayne County.

Moreover, Plaintiff fails to address specifically any of the three prongs of the state-created danger doctrine. Allegations that Wayne County failed to investigate and to warn the public about Judge Kahlil do not state a claim under that theory. Moreover, Wayne County does not supervise or control the 17th District Court or Judge Kahlil. Therefore, Plaintiff fails to state a cognizable § 1983 claim under the state-created danger doctrine.

CONCLUSION

For the foregoing reasons, and for the reasons stated in the principal motion, Wayne County requests that the Court grant its motion to dismiss.

Dated: July 10, 2015

Respectfully submitted,

By: /s/ Davidde A. Stella
Zenna Elhasan (P67961)
Wayne County Corporation Counsel
Davidde A. Stella (P69948)
Assistant Corporation Counsel
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Attorneys for Wayne County

CERTIFICATE OF SERVICE

I certify that on July 10, 2015, the undersigned filed a copy of Reply in Support of Motion to Dismiss by Defendant Wayne County and this Proof of Service with the Clerk of the Court, via ECF system which will serve a copy of these papers on the counsel of record.

s/ Tonya Laden

Tonya Laden, Paralegal-Litigation

EXHIBIT 8



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Court Case #12-008792 AH

Case Overview

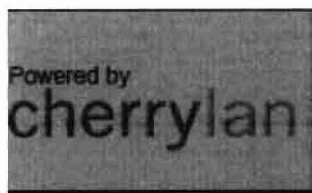
Case Number	12-008792
Case Type	HABEAS CORPUS
Judge	CARRAS,STEPHEN P.,
Prosecutor	
Additional Case Information: [Case document files] [Parties] [Charges] [Events]	

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** Contains case overview, all parties involved, charges, and register of actions

Parties | [Top](#) |

Party Name	Party Type	Attorney of Record
SQUIRES,CORNELL,	PLAINTIFF	NA
MIDLAND COUNTY SHERIFF,,	DEFENDANT	SMITH,LAWRENCE WM,

Charges | [Top](#) |

No information available

Events | [Top](#) |

Date	Case Event
Jul-17-2013	CASE REASSIGNMENT FROM: LAUDERBACH,JONATHAN E , TO: CARRAS,STEPHEN P.,
Jul-19-2012	ORDER OF DISMISSAL (1 pages) PARTIES FAILED TO APPEAR FOR HEARING ON 7/16/12 (#11 deleted)
Jul-16-2012	APPEARANCE D 001 (1 pages) BY ATTY L. WILLIAM SMITH MISCELLANEOUS HEARING HELD D 001 (1 pages) DISMISSED PARTIES NOT PRESENT/COURT DISMISSED AS MOOT/ORDER TO FOLLOW
Jun-28-2012	TRANSCRIPT MISCELLANEOUS HEARING/JUNE 22, 2012 (HEARD BY JUDGE BEALE)
Jun-13-2012	PROOF OF SERVICE FILED (1 pages)
Jun-12-2012	MOTION HEARING (1 pages) PETITIONERS MOTION FOR WRIT OF HABEUS CORPUS-MOTION DENIED /COURT WILL ISSUE AN ORDER TO SHOW CAUSE WHY WRIT IS NOT SHERIFF/FILING FEE TO BE PAID OR AFFIDAVIT TO BE APPLIED FOR AFFIDAVIT/ORDER SUSPENSION FEES (2 pages) GRANTED SET CASE ON CALENDAR /ORDER TO SHOW CAUSE (1 pages) SET FOR 7/16/12 2PM SUMMONS AND COMPLAINT - FEES WAIVED PETITION FOR WRIT OF HABEAS (8 pages) CORPUS DIRECTED TO THE MIDLAND COUNTY SHERIFF JERRY NIELSEN RE: DAVID SCHIED AND REQUEST FOR ORDER

GRANTING A WRIT OF HABEAS
CORPUS

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WARREN C. EVANS
COUNTY EXECUTIVE

July 10, 2015

David Schied
Pro Se
PO Box 1378
Novi, Michigan 48376

RE: *Davis Schied v Wayne County, et al*
Case No. 15-cv-11840

Dear Mr. Schied:

Enclosed, please find the following document, filed today with the USDC:

1) Reply in Support of Motion to Dismiss by Defendant Wayne County.

If you have any questions, please feel free to contact Mr. Stella at 313-224-0696.

Regards,

s/ Tonya Laden

Tonya Laden, LPN
Litigation Paralegal

Encl.

302696

DEPARTMENT OF CORPORATION COUNSEL
500 GRISWOLD STREET, 11TH FLOOR
DETROIT, MICHIGAN 48226