

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION**

DAWNE A SANZONE, Personal Representative  
of the Supervised Estate of Keith R. Koster,  
Deceased,

Plaintiff,

v.

OFFICER JAMES GRAY, in his official and  
individual capacities, OTHER UNKNOWN  
OFFICERS AND PERSONNEL OF THE CITY  
OF INDIANAPOLIS, in their official capacities,  
and CONSOLIDATED CITY OF  
INDIANAPOLIS, MARION COUNTY,  
INDIANA,

Defendants.

Case No. 1:15-cv-01301-TWP-TAB

**ORDER GRANTING SUMMARY JUDGMENT ON ALL CLAIMS**

Following the Mandate issued by the United States Court of Appeals for the Seventh Circuit on April 6, 2018, ([Filing No. 97](#)), the Court ordered that Officer Gray is entitled to qualified immunity on the Fourth Amendment claim against him for excessive force; therefore, summary judgment was granted on all claims against Officer Gray, and he was terminated from this action.

The claims in this action are the state law claims against the City of Indianapolis for Assault and Battery (Count III) and Wrongful Death (Count V). Defendants moved for summary judgment on the Estate's state law tort claims for assault and battery and wrongful death against the City of Indianapolis under the doctrine of *respondeat superior*. Under this doctrine, the Court finds that Officer Gray did not commit the torts of assault and battery under Indiana law. *Cf. Wilson v. Isaacs*, 929 N.E.2d 200, 203 (2010) ("i[f] an officer uses unnecessary or excessive force, the officer may commit the torts of assault and battery"). Accordingly, Plaintiff's wrongful death claim

requires no separate analysis. Dkt. 68 at 20; *Thompson v. City of Indianapolis*, 2017 WL 4365967 at \*15 (S.D. Ind. Sept. 29, 2017). Summary judgment is granted in favor of the City of Indianapolis as to the state law claims and this action is terminated.

Final judgment will issue under a separate order.

**SO ORDERED.**

Date: 5/16/2018



---

TANYA WALTON PRATT, JUDGE  
United States District Court  
Southern District of Indiana

**DISTRIBUTION:**

Anne Medlin Lowe  
RILEY WILLIAMS & PIATT, LLC  
alowe@rwp-law.com

James Piatt  
RILEY WILLIAMS & PIATT, LLC  
jpiatt@rwp-law.com

Joseph N. Williams  
RILEY WILLIAMS & PIATT, LLC  
jwilliams@rwp-law.com

William N. Riley  
RILEY WILLIAMS & PIATT, LLC  
wriley@rwp-law.com

William Edwin Wendling, Jr.  
COHEN GARELICK & GLAZIER  
wwendling@cgglawfirm.com

Adam Scott Willfond  
OFFICE OF CORPORATION COUNSEL  
CITY OF INDIANAPOLIS  
adam.willfond@indy.gov

Thomas J.O. Moore  
OFFICE OF CORPORATION COUNSEL  
CITY OF INDIANAPOLIS  
thomas.moore@indy.gov