

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

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

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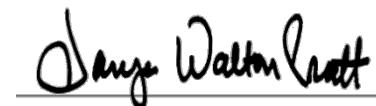
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TANYA WALTON PRATT, JUDGE
United States District Court
Southern District of Indiana