IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

MARGIE M. ROBINSON, as the Personal Representative of the Estate of Christina Dawn Tahhahwah, Deceased,	)	
Plaintiff,	)	Case No: CIV-16-869-F
vs.	)	
THE CITY OF LAWTON, OKLAHOMA, et. al.,	)	
Defendants.	)	

DEFENDANTS GORDON AND JENKINS' MOTION AND BRIEF FOR SUMMARY JUDGMENT

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Plaintiff,	)	Case No: CIV-16-869-F
vs.	))	
THE CITY OF LAWTON, OKLAHOMA, et. al., Defendants.	)))	

DEFENDANTS GORDON AND JENKINS' MOTION AND BRIEF FOR SUMMARY JUDGMENT

Plaintiff Margie M. Robinson, as the Personal Representative of the Estate of Decedent, Christina Tahhahwah (hereinafter, "Tahhahwah"), has sued Defendants Chelsey Gordon and Timothy Jenkins, in their individual capacities, for allegedly violating Tahhahwah's constitutional rights during the course of said Defendants' contact with Tahhahwah in November, 2014. This Motion seeks Summary Judgment as to all claims asserted against Defendants Gordon and Jenkins pursuant to Fed. R. Civ. P. 56(a):

LCvR 56.1(b) STATEMENT

Pursuant to LCvR 56.1(b), Defendants Gordon and Jenkins assert that there is no genuine dispute as to the following material facts:

1. On November 13, 2014 at approximately 1:37 a.m., Tahhahwah called City of Lawton Dispatch (hereinafter, "dispatch") on a non-emergency administrative line and asked if several officers were on duty. Tahhahwah stated she was about to kill her aunt, Anna Berry Chalepah, and when asked by the dispatcher if it had been physical, stated

"yeah, but it's gonna get more physical if I gotta pull my gun on her." The dispatcher told Tahhahwah "well don't do anything like that" to which Tahhahwah responded "No, I'm not." (Exhibit 1 – Affidavit of Jessica Carter)

2. In response to Tahhahwah's call on November 13, 2014 at approximately 1:37 a.m., Officers Daniel Harter and Jackie Long were dispatched to the residence located at 1006 SW 42nd Street, Lawton, Oklahoma. The dispatcher advised Harter and Long that the call was a domestic between Tahhawah and her aunt, there were no weapons and no "signal 87" (which means no intoxicated person). (Exhibit 1 – Affidavit of Jessica Carter)

3. Officers Harter and Long arrived at the residence at approximately 1:49 a.m. Officer Harter found Tahhahwah in the garage. The garage had a mattress and a dresser and Tahhahwah appeared to be in a safe environment. Tahhahwah was coherent and did not make any statements indicating she had any intention to harm herself or anyone else and did not otherwise appear to have the means to do so. Officer Harter left the scene and purchased a hot dog and soda for Tahhahwah and brought it back to her. The officers cleared the call at approximately 2:05 a.m., advising dispatchers there was no domestic. (Exhibit 1 – Affidavit of Jessica Carter; Exhibit 2 – Affidavit of Daniel Harter)

4. On November 13, 2014 at approximately 3:19 a.m., Tahhahwah called a dispatch non-emergency administrative line and asked the dispatcher to find her husband, who she identified as Officer Luis Pagan. Tahhahwah was crying and stated that her "daddy" was kicking her out of her house. Tahhahwah requested Officer Pagan be sent to pick

her up. (Exhibit 1 – Affidavit of Jessica Carter) Tahhahwah referred to her grandfather, Edward Jerome Tahhahwah (who lived at 1006 SW 42nd Street) as her "daddy". (Exhibit 3 – Excerpts of the Deposition of Edward Tahhahwah taken on April 5, 2018, pg. 63, lines 20-23)

5. In response to Tahhahwah's call on November 13, 2014 at approximately 3:19 a.m., Defendant Chelsey Gordon and Officer Daniel Harter were dispatched to the residence at 1006 SW 42nd Street. A dispatcher informed the officers they should make contact with Tahhahwah for a welfare check and it was unknown if there was a domestic or what the situation was. (Exhibit 1 – Affidavit of Jessica Carter)

6. Defendant Gordon and Officer Harter made contact with Tahhahwah in the garage of the residence. Tahhahwah stated she was living in the garage, which had a bed and a dresser. Tahhahwah stated she had "gotten into it" with her grandparents and she was in the garage because her family did not want to talk to her. Gordon tried to make contact with someone inside the residence but no one answered the door. Tahhahwah made sexual advances towards Officer Harter by asking if he wanted to get in bed with her. Both Gordon and Harter observed that Tahhahwah was in a safe environment. Tahhahwah was coherent and responsive to the officers' questions. Neither Gordon nor Harter saw or heard Tahhahwah say or do anything that would indicate Tahhahwah had any intent to harm herself or anyone else or any means to do so. Gordon asked Tahhahwah if she intended to harm herself or anyone else and Tahhahwah said "no". Gordon believed Tahhahwah was just having a bad night with her family. (Exhibit 2 – Affidavit of Daniel Harter; Exhibit 4 – Affidavit of Chelsey

Gordon; Exhibit 5 – Defendant Gordon's Responses to Plaintiff's First Set of Discovery Requests – Interrogatory No. 14)

7. Defendant Gordon and Officer Harter cleared the scene at approximately 3:42 a.m. by calling out "10-8" (back in service) over the radio. Upon clearing the call, a dispatcher logged in the system "does not meet EOD [Emergency Order of Detention], no one else in need." (Exhibit 1 – Affidavit of Jessica Carter)

8. On November 13, 2014, at approximately 5:18 a.m., Tahhahwah again called a dispatch non-emergency administrative line, asked for an "Officer Pagan", and asked if "Officer Pagan" could take her to Memorial (local hospital) because she was "feeling hot." Tahhahwah also asked if Officer Gordon was working and if Officer Gordon could "come see her again". (Exhibit 1 – Affidavit of Jessica Carter)

9. In response to Tahhahwah's call on November 13, 2014 at approximately 5:18 a.m., Defendant Gordon and Officer Daniel Harter were again dispatched to the residence located at 1006 SW 42nd Street. The dispatcher advised the officers the situation was a 10-90 (officer welfare contact) and told the officers that Tahhahwah stated she wants to speak with officers about going back to Memorial because she is not feeling well. (Exhibit 1 – Affidavit of Jessica Carter)

10. Defendant Gordon and Officer Harter arrived at the residence at approximately 5:26 a.m. Defendant Gordon and Officer Harter again made contact with Tahhahwah in the garage of the residence. Both Defendant Gordon and Officer Harter observed that Tahhahwah was in a safe environment. Tahhahwah was coherent and responsive to the officers' questions. Defendant Gordon again attempted to make contact with

someone inside the residence but, again, no one answered the door. Defendant Gordon asked Tahhahwah if she intended to harm herself and Tahhahwah said "no". Tahhahwah continued to make sexual advances at Officer Harter. Neither Officer observed anything about Tahhahwah's physical appearance that indicated that Tahhahwah needed to be taken to a hospital nor did Tahhahwah ask Defendant Gordon or Officer Harter to take her to a hospital. Tahhahwah told Defendant Gordon she "just wanted a cigarette." Tahhahwah did not make any statements or exhibit any behavior that would indicate to Defendant Gordon or Officer Harter that Tahhahwah had any intent to harm herself or anyone else, had any means to do so, or that Tahhahwah otherwise needed to be taken into protective custody. Tahhahwah was coherent, talkative, and non-violent in her communications and interactions with both Defendant Gordon and Officer Harter. (Exhibit 2 – Affidavit of Daniel Harter; Exhibit 4 – Affidavit of Chelsey Gordon; Exhibit 5 – Defendant Gordon's Responses to Plaintiff's First Set of Discovery Requests – Interrogatory No. 14)

11. Defendant Gordon and Officer Harter cleared the call at approximately 5:42 a.m. by stating they were "10-8" (in service). A dispatcher logged into the system that a Comanche Nation Dispatcher had called Lawton dispatch to report that Tahhahwah had called Comanche Nation Dispatch 10-11 times and on the last call, Tahhahawah threatened to shoot or stab someone, but did not say who. This information was not relayed to Defendant Gordon or Officer Harter. (Exhibit 1- Affidavit of Jessica Carter)

12. Edward Tahhahwah, Christina Tahhahwah's grandfather, was at the house during the times Christina was making phone calls to dispatch but was unaware that Christina was calling dispatch and did not speak to Defendant Gordon or Officer Daniel Harter during their responses to the calls. Edward Tahhahwah has confirmed that Tahhahwah did not have access to a weapon to his knowledge and did not have access to anyone else's weapon in the home. (Exhibit 3 - Excerpts from Deposition of Edward Tahhahwah taken April 5, 2018, pg. 57, lines 3-20, pg. 65, lines 1-12, pg. 75, lines 7-12, pg. 61, lines 21-25, pg. 62 lines 1-3)
13. Defendant Gordon did not have any further contact with Tahhahwah after responding to the calls at 3:19 a.m. and 5:20 a.m. (Exhibit 4 - Affidavit of Chelsey Gordon)
14. Defendant Jenkins does not recall having any contact with Tahhahwah at all on the dates in question. Neither Defendant Gordon nor Officer Harter recalls Defendant Jenkins being present at the scene during their responses to the dispatch calls at 3:19 a.m. and 5:20 a.m. on November 13, 2014. (Exhibit 4 - Affidavit of Chelsey Gordon; Exhibit 2 - Affidavit of Daniel Harter; Exhibit 6 - Affidavit of Timothy Jenkins)
15. On November 13, 2014, Defendant Gordon's call sign was A6. Officer Harter's call sign was A24. Defendant Jenkins' call sign was A8. Dispatch records indicate that a dispatcher dispatched A24 (Harter) and A6 (Gordon) to the calls at 3:19 a.m. and 5:20 a.m. Both Officer Harter and Defendant Gordon are heard on dispatch recordings stating that they have arrived at both calls. At the conclusion of the 5:20 dispatch call, Officer Harter calls out to dispatch that A24 (Harter) and A8 (Jenkins) are leaving the scene. Officer Harter believes he mistakenly called out A8 (Jenkins) as opposed to A6

(Defendant Gordon) because he does not remember Jenkins ever being on scene. (Exhibit 1 – Affidavit of Jessica Carter; Exhibit 2 – Affidavit of Daniel Harter)

16. Per the incident history log, A6 and A8 are exchanged and the Computer Aided Dispatch report then reflects that A8 and A24 responded to the calls. It is unknown why the dispatcher exchanged these units and the only recordings available are the ones that were retrieved by a former Director of Emergency Communications. A8 is heard in a recording going "97" (arriving on scene) but he does not specify where he arrives. The dispatcher then arrives A8 on the incident although this is believed to be in error. (Exhibit 1 – Affidavit of Jessica Carter; Exhibit 2 - Affidavit of Daniel Harter)

17. After the two dispatch calls that Defendant Gordon and Officer Harter responded to on November 13, 2014 (at 3:19 a.m. and 5:20 a.m.), Tahhahwah called dispatch at 7:24 a.m. and City of Lawton Officers responded to and cleared the call. (Exhibit 1 – Affidavit of Jessica Carter)

18. On November 13, 2014 at approximately 1:20 p.m. Tahhahwah's family member (Anna Chalepah) called to report a domestic dispute between herself and Tahhahwah. Officers were dispatched to the residence and Anna Chalepah placed Tahhahwah under arrest for Trespassing. Tahhahwah was then transported to the Lawton City Jail by City of Lawton Officers. (Exhibit 1 – Affidavit of Jessica Carter; Exhibit 7 - Citizen's Complaint Form; Exhibit 8 – Affidavit of Lawrence Turner)

19. Tahhahwah was booked into the jail at approximately 2:13 p.m. on November 13, 2014, and was later found unresponsive in her cell on November 14, 2014,

approximately 24 hours after she was booked into the jail. Tahhahwah was then transported to a local hospital. Tahhahwah died on November 17, 2014. (Exhibit 9 – Affidavit of Terry Sellers)

20. Defendant Gordon's only contact with Tahhahwah was on November 13, 2014 at approximately 3:19 a.m. and 5:20 a.m., while responding to two dispatch calls. Defendant Gordon did not have any contact during Tahhahwah's arrest, during Tahhahwah's transport to the jail, or while Tahhahwah was a pretrial detainee at the jail. Defendant Jenkins did not have contact with Tahhahwah at all during any of the events in question. (Exhibit 4 – Affidavit of Chelsey Gordon; Exhibit 6 – Affidavit of Timothy Jenkins)

STANDARD OF REVIEW FOR SUMMARY JUDGMENT

Rule 56(a) of the Federal Rules of Civil Procedure provides that "[t]he court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Summary judgment is not a disfavored procedural shortcut, but an integral part of the federal rules as a whole. *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986). In *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 249 (1986), the Supreme Court held that "there is no issue for trial unless there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party." The Court further held that "if the evidence is merely colorable, or not significantly probative, summary judgment may be granted." *Id.* In addition, the *Anderson* Court stated that "the mere existence of a scintilla of evidence in support of a plaintiff's position will be insufficient; there must be evidence on which a jury could

reasonably find for the plaintiff." *Id.* A movant's summary judgment burden may properly be met by reference to the lack of evidence in support of plaintiff's position. *See Adler v. Wal-Mart Stores, Inc.*, 144 F.3d 664, 671(10th Cir. 1998) (citing *Celotex*, 477 U.S. at 325).

Furthermore, as described by the court in *Cone v. Longmont United Hosp. Ass'n.*,14 F.3d 526 (10th Cir. 1994), "Even though all doubts must be resolved in (the nonmovant's) favor, allegations alone will not defeat summary judgment." *Cone* at 530(citing *Celotex*, 477 U.S. at 324). *See also Hall v. Bellmon*, 935 F.2d 1106, 1111 (10th Cir. 1991); *Roemer v. Pub. Serv. Co. of Colo.*, 911 F. Supp. 464, 469 (D. Colo. 1996). Moreover, "(i)n response to a motion for summary judgment, a party cannot rely on ignorance of facts, on speculation, or on suspicion, and may not escape summary judgment in the mere hope that something will turn up at trial." *Conaway v. Smith*, 853 F.2d 789, 794 (10th Cir. 1988).

DEFENDANT JENKINS IS ENTITLED TO SUMMARY JUDGMENT

Plaintiff asserts one claim against Defendant Jenkins under 42 U.S.C. § 1983: deliberate indifference to medical and psychological needs. However, Defendant Jenkins is entitled to summary judgment on this claim. Section 1983 creates no substantive civil rights, but rather only provides a procedural mechanism for enforcing rights established elsewhere. *See Albright v. Oliver*, 510 U.S. 266, 271, 114 S.Ct. 807, 127 L.Ed.2d 114 (1994); *Gallegos v. City and County of Denver*, 984 F. 2d 358, 362 (10th Cir. 1993). *See also Miller v. Hawver*, 474 F. Supp. 441, 442 n.1 (D. Colo. 1979) (§ 1983 is not a general or common law tort claims statute). To show a constitutional violation by Defendant

Jenkins in his individual capacity under § 1983, Plaintiff "must establish [Defendant Jenkins] acted under color of state law and caused or contributed to the alleged violation." *Jenkins v. Wood*, 81 F.3d 988, 994 (10th Cir. 1996) (citing *Ruark v. Solano*, 928 F.2d 947, 950 (10th Cir. 1991), *overruled on other grounds*, *Lewis v. Casey*, 518 U.S. 343, 116 S.Ct. 2174, 2179-82, 135 L.Ed.2d 606 (1996)); *see also Snell v. Tunnell*, 920 F.2d 673, 700 (10th Cir.1990). In this regard, personal participation is essential to find liability. As such, in order to establish liability under § 1983 against Defendant Jenkins in his individual capacity, Plaintiff must demonstrate that Jenkins acted under color of state law and personally participated in the alleged constitutional violation(s). *See Bruner v Baker*, 506 F.3d 1021, 1026 (10th Cir. 2007); *Foote v. Spiegel*, 118 F.3d 1416, 1423 (10th Cir. 1997). In order for liability to arise under §1983, a defendant's direct personal responsibility for the claimed deprivation of a constitutional right must be established. *Novitsky v. City of Aurora*, 491 F.3d 1244, 1254 (10th Cir. 2007) (police officer who was present at scene but who did not assist or direct other officer in removing arrestee from vehicle did not violate Fourth Amendment; he did not "personally participate" in the use of the twist-lock restraint).

In the case at bar, Plaintiff cannot establish that Defendant Jenkins personally participated in any alleged constitutional violation. In fact, Plaintiff cannot establish that Defendant Jenkins was ever even in direct or indirect contact with Tahhahwah – because he was not. Defendant Jenkins did not respond to any "check welfare" calls relating to Tahhahwah and never came into contact with Tahhahwah; Defendant Jenkins was not present when Tahahhwah was arrested by Anna Chalepah; Defendant Jenkins was not

present when Tahhahwah was transported to the Lawton City Jail; and Defendant Jenkins was not present at any time while Tahhahwah was a pretrial detainee at the Lawton City Jail. (Fact Nos. 14-17) As such, Defendant Jenkins is entitled to summary judgment because it cannot be shown that he directly, or even indirectly, caused any alleged constitutional violation.

DEFENDANTS GORDON AND JENKINS ARE ENTITLED TO QUALIFIED IMMUNITY

The doctrine of qualified immunity applies to protect government officials from liability unless the plaintiff demonstrates that the defendant violated a "clearly established" constitutional right. *Pearson v. Callahan*, 555 U.S. 223, 231-23 (2009). To be clearly established, a right must be sufficiently clear that every reasonable official would have understood that what he is doing violates that right. *Reichle v. Howards*, 132 S.Ct. 2088, 2093 (2012). In other words, existing precedent must have placed the statutory or constitutional question "beyond debate". *Id.* As will be shown below, the existence of the alleged constitutional right at issue in this case is not questionable at all and assuredly is not "beyond debate". Thus, Defendants Gordon and Jenkins are entitled to qualified immunity.

A. Defendants Have Not Violated any Clearly Established Constitutional Right

Plaintiff has asserted a § 1983 civil rights claim against Defendants Gordon and Jenkins for failure to provide medical and psychological care. Plaintiff's Complaint specifically states that "at the time of the actions described herein, the rights of Christina Dawn Tahhahwah were codified, established, and sufficiently clear that every

reasonable officer would have understood that the failure to provide medical care and attention to the serious medical needs of an *arrestee* violated her Constitutional Rights." (emphasis added)[Doc. 1, ¶ 63] It should first be noted that Tahhahwah was not an arrestee at any point and time during any alleged interaction or contact with Defendant Gordon or Jenkins.[1] Therefore, Plaintiff's claim, at best, is that a police officer who comes into contact with an allegedly mentally ill citizen, who is not in their custody or control, has some affirmative duty to summon or provide medical care for said citizen and that failure to do so is a violation of the citizen's constitutional rights.

Qualified immunity shields government officials from liability unless the plaintiff shows (1) the defendant's violation of a constitutional right; and (2) that the right the official violated was "clearly established" at the time of the challenged conduct. "For a constitutional right to be clearly established, the contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right." *Ashcroft v. al-Kidd*, 563 U.S. 731, 744, 131 S. Ct. 2074, 2085, 179 L. Ed. 2d 1149 (2011) See also *Brousseau v. Haugen*, 125 S.Ct. 596, 599, 160 L.Ed.2d 583 (2004)(emphasizing inquiry should be conducted in light of the specific context of the case.)

The Tenth Circuit, following the Ninth Circuit, has refused to find that the due process clause establishes an affirmative duty on police officers to provide medical care—even something as basic as CPR—in any and all circumstances. "[T]here is

[1] As shown above, Defendant Jenkins had no contact with Tahhawah at all on the dates in question, and Plaintiff will be unable to show otherwise.

no duty to give, as well as summon, medical assistance, even if the police officers are trained in CPR." *Jones v. Norton*, 3 F. Supp. 3d 1170, 1207–08 (D. Utah 2014), *aff'd,* 809 F.3d 564 (10th Cir. 2015) Defendants can find no case in which the Supreme Court, or any Tenth Circuit Court of Appeals, has held that a police officer violated a citizen's constitutional rights under facts similar to the case at bar. On the facts alleged, no constitutional right of Tahhahwah's would have been violated by any action or inaction of Defendants Gordon or Jenkins, thus entitling both Defendants to dismissal.

Even if, on the facts alleged, a constitutional right can be established, then the Plaintiff must next show that the right is clearly established such that it would be clear to a reasonable official in Defendants' position that his/her conduct was unlawful in the situation he/she confronted. Again, Plaintiff will be unable to meet this prong of the qualified immunity analysis, and Defendants are entitled to dismissal.

In *Anderson v. Creighton*, 483 U.S. 635, 639, 107 S.Ct. 3034, 97 L.Ed.2d 523 (1987), the U.S. Supreme Court explained that "whether an official protected by qualified immunity may be held personally liable for an allegedly unlawful official action generally turns on the 'objective legal reasonableness' of the action, assessed in light of the legal rules that were 'clearly established' at the time it was taken." (Internal citations omitted). *See also Gomes v. Wood*, 451 F.3d 1122, 1134 (10th Cir. 2006) ("The law is clearly established if a reasonable official in the defendant's circumstances would understand that her conduct violated the plaintiff's constitutional right.")

The legal principle that pre-trial detainees are to be provided adequate medical care and humane conditions of confinement is indeed well established; however, the qualified immunity analysis in this regard is analyzed “in a more particularized, and hence more relevant, sense.” *Anderson*, 483 U.S. at 640. Specifically, “[t]he contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right.” *Id.* The question is not whether Tahhahwah had such rights, but whether it was clearly established that Defendants Gordon and Jenkins alleged actions violated those rights. *Id* at 635.

While an inmate’s right to medical care is clearly established in a general sense, the qualified immunity inquiry requires that the Court look to clearly established law which is particularized to the facts of the case. *Perry v. Durborow*, 892 F.3d 1116, 1118 (10th Cir. 2018). Before the Court can determine the law was clearly established, it has to identify a case where an individual acting under similar circumstances as Defendants was held to have violated the Eighth or Fourteenth Amendments under a theory of individual liability. *Id.*

The undisputed, particularized facts of this case are that Defendant Gordon received two dispatch calls regarding a welfare check relating to Tahhahwah; Gordon and another officer made contact with Tahhahwah in the garage of the residence, and Tahhahwah stated she was living in the garage; the garage had a bed and a dresser and appeared to be a safe environment; Gordon tried to make contact with someone in the residence on both calls, and no one answered the door; both Gordon and the other

officer observed Tahhahwah to be coherent, in fact, Tahhahwah was coherent enough to respond to questions, tell the officers about her situation with her family, and to even call back to dispatch to ask to speak to Officer Gordon. (Fact Nos. 6,8,10)

Defendant Gordon specifically asked Tahhahwah if she intended to harm herself or anyone else and Tahhahwah said "no"; neither Gordon nor the other officer observed or heard Tahhahwah say or do anything that would indicate Tahhahwah had any intention to harm herself or anyone else, nor did she appear to have the means to do so; Tahhahwah's grandfather, who was at the residence at the time, later confirmed the officer's observations that Tahhahwah did not have access to a weapon; neither Gordon nor the other officer observed anything about Tahhahwah's physical appearance that indicated that Tahhahwah needed to be taken to a hospital nor did she request to be taken to a hospital. (Fact Nos. 6,10,12) More importantly, Tahhahwah was never in the custody or control of either Defendant Gordon or Jenkins, was never arrested by Gordon or Jenkins, was never transported to jail by Gordon or Jenkins, and neither Gordon nor Jenkins was present while Tahhahwah was a pretrial detainee at the Lawton City Jail.(Fact Nos. 13,14)

As shown above, Defendants Gordon and Jenkins are entitled to qualified immunity.

CONCLUSION

Based on the undisputed, particularized facts of this case, Plaintiff will be unable to show that a reasonable official, in the position of Defendant Gordon, would understand

that her actions violated some unidentified constitutional right of Tahhahwah. Plaintiff has failed to establish that Defendant Jenkins even had contact with Tahhahwah at all. Furthermore, Plaintiff has failed to show the existence of a constitutional right in relation to Defendant Gordon's contact with Tahhahwah and *even if* a constitutional right existed, Plaintiff has failed to show that the right was clearly established or to specifically show that a reasonable official in Defendant Gordon's position would have understood that her actions violated Tahhahwah's constitutional rights. As such, both Defendant Gordon and Defendant Jenkins are entitled to dismissal.

Respectfully submitted this 30th day of July, 2018.

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CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of July, 2018, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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