

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Michael Bounds, et al.,

Court File No. 13-CV-266 (JRT/FLN)

Plaintiffs,

v.

**RAMSEY COUNTY DEFENDANTS’
REPLY MEMORANDUM OF LAW IN
SUPPORT OF MOTION TO DISMISS**

The State of Minnesota, et al.,

Defendants.

INTRODUCTION

Plaintiffs have withdrawn their claims under 42 U.S.C. § 1983 for violations of the Fourth and Eighth Amendments and their claims under the Tort Claims Act (Doc. 51, p. 2). Only two claims remain: alleged violations of 42 U.S.C. § 1983 for violations of the Fourteenth Amendment (bodily integrity) and First Amendment (free speech and peaceable assembly) (*Id.* at pp. 2-3). The Ramsey County Defendants’ Motion to Dismiss should be granted as to both claims.

The Ramsey County Defendants’ Motion to Dismiss should be granted.¹ As discussed below and in Ramsey County’s initial brief, Plaintiffs have failed to allege specific conduct by any Ramsey County official that would give rise to a claim upon

¹ There are two Ramsey County Defendants named in this lawsuit: The Ramsey County Sheriff’s Office and Ramsey County Deputy Sheriff Mark Suchy. In their opposition memorandum, Plaintiffs mistakenly refer to a Ramsey County Officer Schuenke and to Ramsey County’s attempt to convert its motion to a Rule 56 summary judgment motion. (Doc. 51, p. 30, ¶ 3.) Ramsey County believes this is a clerical error. Defendant Schuenke is a Dakota County deputy and Ramsey County has not referred to any matter outside the pleadings in its motion to dismiss. (Doc. 48, p. 2; Doc 34.)

which relief can be granted. Additionally, the Ramsey County Defendants are entitled to qualified immunity.

ARGUMENT

I. PLAINTIFFS HAVE WAIVED THEIR CLAIMS AGAINST RAMSEY COUNTY BY FAILING TO ALLEGE SPECIFIC CONDUCT BY ANY RAMSEY COUNTY OFFICIAL WHICH WOULD GIVE RISE TO A CLAIM UPON WHICH RELIEF CAN BE GRANTED.

As set forth in the Ramsey County Defendants' initial memorandum, Plaintiffs have failed to allege specific conduct by any Ramsey County officials which could give rise to a claim upon which relief can be granted in this case. (Doc. No 34, pp. 5-7.) As discussed below, Plaintiffs' failure to allege specific conduct by Ramsey County officials requires the dismissal of Plaintiffs' claims against the Ramsey County Defendants.

It is well-settled that a government official cannot be held liable for alleged constitutional violations unless the official personally participated in the alleged violation. As this Court has stated "[m]ere supervisory responsibility is not enough to establish liability for a constitutional violation; rather, each individual defendant must be personally, directly involved." *Flores v. U.S.*, No. 09-838, 2011 WL 118820 (D. Minn. 2011) (ruling that officials at Ramsey County corrections facility could not be held individually liable for alleged violations of detainee's constitutional rights where officials did not participate in care of detainee) (citing *Dahl v. Weber*, 580 F.3d 730, 733 (8th Cir. 2009); see also *Green v. St. Louis Housing Authority*, 911 F.2d 65, 68-69 (8th Cir. 1990) (ruling that city mayor could not be held individually liable for allegedly unconstitutional termination of employee where mayor was not personally involved in termination); *Smith*

v. Copeland, 892 F.Supp. 1218, 1232 (E.D. Mo. 1995) (holding that prison officials could not be held individually liable for alleged constitutional violations resulting from presence of sewage in detainee's cell where detainee failed to allege personal involvement of any of named defendants); *Martin v. Sargent*, 780 F.2d 1334, 1338 (8th Cir. 1985) (affirming dismissal of §1983 claim against prison warden where complaint did not allege warden's personal involvement in incidents giving rise to claimed injuries).

Mere knowledge of conduct which allegedly results in constitutional violations is not sufficient to establish personal participation. *Ashcroft v. Iqbal*, 556 U.S. 662, 677 (2009). "Because vicarious liability is inapplicable to . . . § 1983 suits, a plaintiff must plead that each Government-official defendant, through the official's own individual actions, has violated the Constitution." *Id.* at 676.

In this case, Plaintiffs have not alleged specific conduct by any Ramsey County Defendant which Plaintiffs claim gives rise to their injuries. (Doc. No. 1.) Only one Ramsey County employee is named in the Complaint and Plaintiffs do not even claim to have had any contact with him. (*Id.*) Instead, Plaintiffs make sweeping claims and conclusory and formulaic allegations against all 100 plus Defendants who were "involved" in the DRE program without regard to whether the Defendants had contact with Plaintiffs at all. (*Id.* at ¶ 15-16.)

As discussed in the Ramsey County Defendants' initial brief, such conclusory and formulaic allegations are insufficient to defeat a motion to dismiss for failure to state a claim upon which relief can be granted. *Iqbal*, 556 U.S. at 679-80 (allegations that government officials designed, knew of, condoned, and willfully and maliciously agreed

to subject Plaintiffs to unconstitutional treatment were insufficient to state claim upon which relief could be granted).

The same reasoning applies here. Plaintiffs have failed to allege facts that identify specific conduct by any Ramsey County official that would show personal involvement in the alleged constitutional violations. Under the Supreme Court's reasoning in *Iqbal* and the precedents discussed above, this failure is fatal to Plaintiffs' claims against Ramsey County and its officers. As a result, all claims against the Ramsey County Defendants should be dismissed with prejudice.

Plaintiffs' claims against the Ramsey County Defendants should also be deemed waived because Plaintiffs failed to respond to Ramsey County's arguments in Plaintiffs' opposition memorandum. Under federal law, a party who fails in their opposition memorandum to respond to an argument in support of a dispositive motion waives any claims addressed by the argument. *Graham v. Rosemount, Inc.*, 40 F.Supp.2d 1093, 1101 (D. Minn. 1999) (where plaintiff in age and disability discrimination lawsuit declined to respond to defendants' arguments in dispositive motion, court would consider claims waived); *Anderson v. Newmar Corp.*, 319 F.Supp.2d 943, 948 (D. Minn. 2004) (plaintiff conceded that statutory warranty claim should be dismissed where plaintiff did not reply to defendants' argument in plaintiff's opposition memorandum); *Thomsen v. Ross*, 368 F.Supp.2d 961, 971, fn. 8 (D. Minn. 2005) (where plaintiff arrestee failed to respond to officers' arguments in favor of summary judgment "[t]his alone would justify dismissal of . . . assault and excessive force claims."); *Tatone v. Suntrust Mortgage, Inc.*, 857 F.Supp.2d 812, 834 (D. Minn. 2012) (where plaintiff failed to provide specific responses

to defendant's arguments in favor of dismissal, court would consider claims abandoned).

Here, Plaintiffs do not argue in their opposition memorandum that they have alleged specific conduct by Ramsey County Defendants to support their alleged claims. (Doc. 51, pp. 15-21.) In fact, Plaintiffs completely fail to respond to the Ramsey County Defendants' argument regarding the absence of allegations of personal involvement by Ramsey County officials. (*Id.*) As a result, Plaintiffs' alleged claims against the Ramsey County Defendants are waived.

II. PLAINTIFFS' FOURTEENTH AMENDMENT CLAIM FAILS AS A MATTER OF LAW BECAUSE PLAINTIFFS HAVE NOT ALLEGED THAT THEY DID NOT KNOW THAT THEY WERE TAKING RECREATIONAL DRUGS.

As discussed above, each of Plaintiffs' claims against Ramsey County, including their Fourteenth Amendment claim, must be dismissed because Plaintiffs have not alleged conduct by any Ramsey County officials that allegedly violated the Plaintiffs' constitutional rights.

Plaintiffs' Fourteenth Amendment claim fails as a matter of law for an additional reason. In their Complaint, Plaintiffs allege that the Defendants' conduct violated their rights to bodily integrity (Doc. 1, ¶ 20.) Plaintiffs' Complaint, however, fails to allege facts that would give rise to a viable claim for a violation of their right to bodily integrity. As a result, Plaintiffs' Fourteenth Amendment claim fails as a matter of law.

Plaintiffs attempt to establish their bodily integrity claims by citing cases involving unwitting participants who were misled or deceived into participating in medical experiments. (*Id.*) Plaintiffs' argument fails for the following reasons.

First, the DRE program is neither a medical experiment nor a clinical trial. Numerous courts have recognized the DRE program as a valid law enforcement training tool that enables police officers to develop the necessary expertise to recognize when individuals are impaired by narcotics. *See eg. Minn. v. Klawitter*, 518 N.W.2d 577 (Minn. 1994) (ruling that police officer who had completed DRE training could offer expert opinion testimony regarding whether defendant was under influence of marijuana); *U.S. v. Everett*, 972 F.Supp. 1313 (D. Nev. 1997) (DRE program meets admissibility requirements under *Daubert* and trained officers may offer opinion testimony regarding whether defendant impaired by drugs); *Luzzi v. Mack*, No. 95 Civ. 9720, 1998 WL 150496 (S.D. N.Y. 1998) (dismissing claim for false arrest where arresting officer consulted with officer who had completed DRE training prior to arresting plaintiff for driving while impaired by drugs); *Watson v. Sandpoint Police Dep't.*, No. CV05-21-N-EJL, 2006 WL 2632574 (D. Idaho 2006) (same).

Second, the cases where courts have recognized a bodily integrity claim are distinguishable from the present case. In each case where a bodily integrity claim has been allowed, the claimants were deceived or misled as to what was happening to them. For example, in *Heinrich v. Sweet*, 62 F.Supp.2d 282, 320 (D. Mass. 1999), the court held the plaintiffs could maintain a bodily integrity claim where they alleged that they were deceived into participating in a medical experiment. In *Stadt v. University of Rochester*, 921 F.Supp. 1023 (W.D. N.Y. 1996), the court held that a plaintiff could maintain a bodily integrity claim where the physician allegedly told the plaintiff she would receive treatment for a skin disease but actually injected her with plutonium without her

knowledge or consent. Similarly, in *In re Cincinnati Radiation Litigation*, 874 F.Supp. 796 (S.D. Ohio 1995), the court held that plaintiffs could maintain a bodily integrity claim where the plaintiffs were allegedly told they were being given cancer treatments but were actually being subjected to radiation treatments.

On the contrary, where, as here, a plaintiff knew what they were taking and there are no allegations that they were deceived or misled about what substances they were ingesting, a bodily integrity claim fails as a matter of law. *See Wright v. Fred Hutchinson Cancer Research Center*, 269 F.Supp.2d 1286, 296 (W.D. Wash. 2002) (plaintiffs could not maintain bodily integrity claim where they understood nature of medical experiments in which they participated). *See also Ammend v. Bioport, Inc.*, 322 F.Supp.2d 848, 870-71 (W.D. Mich. 2004) (plaintiffs failed to state claims for violation of bodily integrity based on administration of anthrax vaccine where neither false pretenses nor deception were used to persuade plaintiffs to take vaccine).

In this case, there are no allegations that the Plaintiffs were deceived into taking recreational drugs. (Doc. 1.) The Complaint clearly states that the Plaintiffs knew and understood what they were allegedly taking. There is no claim that the Plaintiffs did not know that they were ingesting recreational drugs, or that they were tricked into using one drug when they thought they were being given another. Although the Plaintiffs assert that there was no therapeutic value to the DRE program, they do not allege that anyone ever lied or tricked the Plaintiffs into believing the drugs had therapeutic value. (Doc. 51, pp. 16-17; Doc. 1.) The Complaint is devoid of any allegations of deception or trickery. As a result, the bodily integrity claim fails as a matter of law.

For the reasons discussed above, Plaintiffs' alleged bodily integrity claim fails as a matter of law. (Doc. 1, ¶¶ 1-63.) Federal law simply does not provide a cause of action for someone who is already high or agrees to get high on recreational drugs as part of a police training program. Plaintiffs' request for this Court to expand the substantive due process to create such a cause of action should be denied. *Ammend*, 322 F. Supp. at 870-71 (stating that Supreme Court has admonished lower courts to exercise judicial restraint when asked to expand rights protected by substantive due process clause) (citing *Collins v. City of Harker Heights*, 503 U.S. 115, 125 (1992)).

III. PLAINTIFFS' FIRST AMENDMENT CLAIM FAILS AS A MATTER OF LAW BECAUSE PLAINTIFFS HAVE NOT ALLEGED FACTS THAT ESTABLISH A *PRIMA FACIE* CLAIM FOR RETALIATION.

As discussed above, each of Plaintiffs' claims against Ramsey County, including their First Amendment claims, must be dismissed because Plaintiffs have not alleged conduct by any Ramsey County officials that allegedly violated the Plaintiffs' constitutional rights. As discussed below, Plaintiffs' alleged First Amendment claims must be dismissed for an additional reason. Plaintiffs have failed to allege facts that would establish a *prima facie* violation of their First Amendment rights.

It is a well-settled principle that "the First Amendment prohibits government officials from subjecting an individual to retaliatory actions . . . on the basis of his constitutionally protected speech." *Osborne v. Grussing*, 477 F.3d. 1002, 1005 (8th Cir. 2007) (quoting *Hartman v. Moore*, 547 U.S. 250, 256 (2006)).

Because Plaintiffs allege that they were targeted because of their exercise of free speech, Plaintiffs have the burden of proof to demonstrate (1) that they were engaged in a

protected activity; (2) that the government official took adverse action against them that would chill a person of ordinary firmness from continuing in the activity; and (3) that the adverse action was motivated at least in part by the exercise of the protected activity. *Santiago v. Blair*, 707 F.3d. 984, 991 (8th Cir. 2013) (citing *Revels v. Vincenz*, 382 F.3d 870, 876 (8th Cir. 2004)). Furthermore, the Plaintiffs must show that the retaliatory motive was the “but-for” cause of the retaliation; a plaintiff will not be able to recover if the defendant would have taken the same action even in the absence of any improper motive. *Binion v. City of St. Paul*, 788 F.Supp.2d 935, 946 (D. Minn. 2011); *Baribeau v. City of Minneapolis*, 596 F.3d 465, 481 (8th Cir. 2010).

Ramsey County Defendants do not dispute that Plaintiffs were engaging in the constitutionally protected activity of protesting in a peaceable manner when they were participating in the Occupy Minneapolis protests. *Cross v. Mokwa*, 547 F.3d. 890, 896 (8th Cir. 2008); *Fischer v. City of St. Paul*, 894 F.Supp.1318, 1325 (D. Minn. 1995).

Plaintiffs’ alleged First Amendment claim fails, however, because Plaintiffs have not alleged facts that would show the Plaintiffs were subject to adverse action. To support their First Amendment retaliation claim Plaintiffs must allege that the government officials took some sort of punitive action against them. *See e.g. Santiago*, 707 F.3d at 992 (holding that the threat of death or serious bodily injury constitutes an adverse action); *Lawrence v. City of St. Paul*, 740 F.Supp.2d 1026, 1044 (D. Minn. 2010) (holding that ordering the towing of plaintiff’s car and ordering a blood test are adverse actions); *Garcia v. City of Trenton*, 348 F.3d. 726, 728 (8th Cir. 2003) (holding that the issuance of multiple parking tickets against plaintiff after a threat from a city

official constituted an adverse action); *Sprouse v. Babcock*, 870 F.2d 450, 452 (8th Cir. 1989) (holding that filing of disciplinary charges against inmate could constitute adverse action if done in retaliation for inmate having filed grievance).

As the case law discussed above makes clear, there has not been any adverse action against the Plaintiffs in this case. Plaintiffs do not allege any sort of punitive action. Instead, Plaintiffs allege that they suffered adverse action solely because they were approached by law enforcement at a protest and asked to participate in a voluntary program. (Doc. 51, p. 20). The request to take recreational drugs does not rise to the level of “adverse action” that would support a First Amendment Retaliation claim. As a result, Plaintiffs’ alleged First Amendment claim must be dismissed.

Plaintiffs’ First Amendment claim also fails because Plaintiffs have not alleged facts that show that the alleged action taken against them would chill a person of ordinary firmness from continuing in the activity. *See Santiago*, 707 F.3d at 991. While it is true that the question whether the Plaintiffs themselves were deterred from participating in the protected activity is not entirely dispositive, the Eighth Circuit has held that how the “plaintiff acted might be evidence of what a reasonable person would have done.” *Lawrence v. City of St. Paul*, 740 F.Supp.2d 1026, 1044 (D. Minn. 2010). In this case, the Plaintiffs were clearly not deterred from participating in the Occupy Minneapolis protests. After Plaintiffs participated in the DRE program, law enforcement actually returned Plaintiff Olivier to Peavy Plaza “where the Occupy protesters were gathered” so that he could continue to engage in his constitutional right of free speech. (Doc. 1, ¶ 34-35, 42). In addition to police returning one Plaintiff specifically to the protesting site,

Plaintiff Bounds was released in downtown Minneapolis after his participation, and “the remaining Plaintiffs had similar experiences.” (Doc. 1, ¶ 31, 42). Because all of the Plaintiffs were released in downtown Minneapolis and could have easily resumed the protesting, the facts as alleged show that a reasonable person would not have felt “chilled” from continuing the protected activity. Moreover, because participation was voluntary, Plaintiffs could have refused to participate. The Plaintiffs, however, did the opposite and agreed to ingest recreational drugs. (Doc. 1, ¶ 30, 33). Plaintiff Olivier was “offered” recreational drugs on numerous occasions, and each time he was approached about the DRE, he willingly participated. (Doc. 1, ¶ 33-36). The facts alleged in the Complaint do not show that the alleged conduct would have chilled a person of ordinary firmness from exercising their First Amendment rights. Plaintiffs’ alleged First Amendment claims therefore fail as a matter of law.

Finally, the facts alleged in the Complaint show that the alleged government conduct was not retaliatory. As noted above, the allegations make it clear that the police returned the Occupy Minnesota protesters to the protest site. (Doc. 1, ¶ 34-42.) The fact that the police returned the Plaintiffs to an ongoing protest so that the Plaintiffs could re-join the protests defeats any suggestion that the police conduct was retaliatory. As a result, the Plaintiffs’ alleged First Amendment claims fail as a matter of law.

Plaintiffs’ First Amendment claims should be dismissed as a matter of law. For the reasons discussed above, Plaintiffs have failed to allege sufficient facts to make out a *prima facie* claim for retaliation.

IV. EACH OF PLAINTIFFS' ALLEGED CLAIMS AGAINST RAMSEY COUNTY MUST BE DISMISSED BECAUSE DEPUTY SUCHY IS ENTITLED TO QUALIFIED IMMUNITY.

As set forth in Ramsey County's initial brief, Ramsey County Deputy Suchy is entitled to qualified immunity in this case because it is not clearly established that participating in a DRE program as alleged by Plaintiffs would result in any constitutional violations. (Doc. 34, pp. 17-18.)

Plaintiffs' argument against immunity fails because it is based entirely on cases that are not on point. (Doc. 51, pp. 21-23.) As previously noted, in each of the cases Plaintiffs cite, the complainants were deceived or misled as to what was happening to them. *See e.g. Heinrich v. Sweet*, 62 F.Supp.2d at 320 (D. Mass. 1999 (plaintiffs could maintain bodily integrity claim where plaintiffs alleged they were deceived into participating in medical experiment); *Stadt v. University of Rochester*, 921 F.Supp. 1023 (plaintiff could maintain bodily integrity claim where physician allegedly told plaintiff she would receive treatment for a skin disease but actually injected her with plutonium without her knowledge or consent); *In re Cincinnati Radiation Litigation*, 874 F.Supp. 796 (plaintiffs could maintain bodily integrity claim where plaintiffs were allegedly told they were being given cancer treatments but were actually being subjected to radiation treatments.)

These cases are inapplicable to the present case for two reasons. First, the cases Plaintiffs cite involved medical experiments. This case involves a police training program. Second, there are no allegations that the Plaintiffs in this case were tricked or deceived into participating in the DRE program. (Doc. 1.) On the contrary, the

allegations make it clear that the Plaintiffs knew what drugs they were taking and there is no claim that any Plaintiffs thought they were taking one drug and were given another. (*Id.*) As a result, the cases the Plaintiffs cite are not on point and cannot defeat the Defendants' qualified immunity in this case.

To defeat qualified immunity, a plaintiff must establish that a government official was on "fair notice" that their conduct violated a clearly established right. *Sisney v. Reisch*, 674F.3d 839, 847 (8th Cir. 2012) (citing *Hope v. Pelzer*, 536 U.S. 730, 739 (2002)). "[I]n order for any official to be 'fair notice,' '[t]he contours of [a] right must be sufficiently clear' that the unlawfulness of the challenged conduct was apparent." *Id.* (quoting *Anderson v. Creighton*, 488 U.S. 635, 640 (1987)). As the U.S. Supreme Court has stated in explaining qualified immunity, "[i]f prior case law has not clearly settled the right, and so given officials fair notice of it, the court can simply dismiss the claim for money damages." *Camreta v. Greene*, 131 S.Ct. 2020, 2031 (2011).

In this case, the Plaintiffs cannot establish that the DRE program violated any clearly established rights. Significantly, the Plaintiffs fail to cite to a single case where a court has held that allowing or even asking individuals to ingest known recreational drugs as part of a police training exercise violates the Constitution. (Doc. 51.) Although Plaintiffs analogize to case law involving medical experiments in hospitals, "[p]ublic officials are not obligated to be creative or imaginative in drawing analogies from previously decided cases." *Al-Haydar v. Bontz*, No. 4:11CV1952, 2012 WL 2191301 (E.D. Mo. 2012) (quoting *Hudson v. Hall*, 231 F.3d 1289, 1297 (11th Cir. 2000).

Plaintiffs have failed to cite any authority which would put a reasonable officer on notice that the DRE program violated any constitutional rights.

This is especially true in light of the body of case law that establishes that DRE programs are a valid police training tool. As noted above, the courts have long recognized DRE programs as a valid law enforcement training tool. *See e.g. Klawitter*, 518 N.W.2d 577 (recognizing that DRE training provides police expertise in determining if individuals are under influence of narcotics); *U.S. v. Everett*, 972 F.Supp. 1313 (holding DRE program meets admissibility requirements under *Daubert* and ruling that trained officers may offer opinion regarding whether defendant impaired by drugs); *Luzzi v. Mack*, 1998 WL 150496 (S.D. N.Y. 1998) (dismissing claim for false arrest where arresting officer consulted with officer who had completed DRE training prior to arresting plaintiff for driving while impaired by drugs); *Watson v. Sandpoint Police Dep't.*, 2006 WL 2632574 (same).

As the case law discussed above establishes, DRE training programs have been in use and have been recognized as a valid police training tool for almost twenty years now. In the face of this authority, it cannot reasonably be said that the officers in this case were on fair notice that their alleged conduct violated a clearly established right. As a result, the claims against Ramsey County are shielded by qualified immunity and they must be dismissed.

V. PLAINTIFFS HAVE NOT ALLEGED FACTS WHICH ESTABLISH A VIABLE *MONELL* CLAIM.

Plaintiffs argue that they have established a viable claim against the local municipalities because Plaintiffs have asserted theories of failure to train and custom or policy. (Doc. 51, pp. 24-25.) For the reasons discussed below, Plaintiffs' argument is without merit.

In its initial brief, the Ramsey County Defendants recognized that Plaintiffs were attempting to assert a negligent training or failure to train claim. (Doc. 34, pp. 19-20.) As noted in Ramsey County's initial brief, a plaintiff must prove that a municipal policy or custom was the "moving force [behind] the constitutional violation." *Mettler v. Whitley*, 165 F.3d 1197, 1204 (8th Cir. 1999). "Proof of a single incident of unconstitutional activity is not sufficient to impose liability under *Monell*, unless proof of the incident includes proof that it was caused by an existing, unconstitutional municipal policy, which policy can be attributed to a municipal policymaker." *Oklahoma City v. Tuttle*, 471 U.S. 808, 823-24 (1985); *Davison v. City of Minneapolis*, 490 F.3d 648, 659 (8th Cir. 2007).

Here, Plaintiffs plead no facts alleging a widespread Ramsey County policy or custom that would require or cause their constitutional rights to be violated. (Doc. 1.) Plaintiffs also fail to plead facts explaining how an unidentified Ramsey County Sheriff's Department policy or custom would have any connection to or influence over the Minnesota State Patrol's DRE training program, let alone how it could be the "moving force" behind the alleged violations of the Plaintiffs' rights. (*Id.*)

Additionally, Ramsey County cannot subject to § 1983 or *Monell* liability in this case because there are no constitutional violations by Deputy Suchy. *See Sanders v. City of Minneapolis*, 474 F.3d 523, 527 (8th Cir. 2007). Because Plaintiffs fail to allege an unconstitutional act attributable to an unconstitutional Ramsey County policy or custom or failure to train, Plaintiffs' § 1983 claims against Ramsey County and against Deputy Suchy in his official capacity must be dismissed.

CONCLUSION

For the above reasons and the reasons set forth in their initial memorandum, Ramsey County Defendants respectfully request that this Court grant their Motion to Dismiss and dismiss Plaintiffs' claims in their entirety, with prejudice, together with costs and disbursements.

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Dated: May 1, 2013

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