

United States Court of Appeals
For the Eighth Circuit

No. 17-1342

Patsy Ann Oxford, Individually and as Administrator of the Estate of James R.
Oxford, deceased; James T. Oxford,

Plaintiffs - Appellants,

v.

Madison County Sheriff's Office; Sheriff Phillip Morgan, in his official capacity
as Madison County Sheriff; Andy Mitchell, Individually and in his official
capacity as a Deputy in the Madison County Sheriff's Office,

Defendants - Appellees.

Appeal from United States District Court
for the Western District of Arkansas - Fayetteville

Submitted: November 23, 2017
Filed: December 11, 2017
[Unpublished]

Before WOLLMAN, LOKEN, and COLLOTON, Circuit Judges.

PER CURIAM.

Patsy and James T. Oxford sued Madison County, Arkansas,¹ and Madison County Sheriff's Deputy Andy Mitchell for allegedly not doing enough to prevent the death of James R. Oxford--Patsy's husband and James T.'s father--in an automobile accident. We agree with the district court² that even if the Oxfords' allegations are true, they do not describe a constitutional violation that would support liability under 42 U.S.C. § 1983. *See Simes v. Ark. Judicial Discipline & Disability Comm'n*, 734 F.3d 830, 834 (8th Cir. 2013) (de novo review). The police do not have an enforceable constitutional duty to protect anyone, including people whose affairs they have become involved with, unless they are in custody (or some similar "special relationship" with the state) or the state affirmatively put them in danger. *See Gregory v. City of Rogers*, 974 F.2d 1006, 1009-10 (8th Cir. 1992) (en banc). Neither circumstance was present here. As for the county, there can be no municipal liability on the Oxfords' theory without an underlying constitutional violation. *See McCoy v. City of Monticello*, 411 F.3d 920, 922 (8th Cir. 2005).

The judgment of the district court is affirmed.

¹The Oxfords did not name the county as a defendant but sued county employees in their official capacities. *See Baker v. Chisom*, 501 F.3d 920, 925 (8th Cir. 2007).

²The Honorable P.K. Holmes, III, Chief Judge, United States District Court for the Western District of Arkansas.