

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

BRIAN LOMANACK, an)
individual,)
)
Plaintiff,)
)
v.)
)
GREGORY BOUTWELL, in his)
official capacity as Fire)
Chief for the City of)
Ozark, Alabama and in his)
individual capacity, et)
al.,)
)
Defendants.)

CIVIL ACTION NO.
1:15cv122-MHT
(WO)

JUDGMENT

In accordance with the memorandum opinion entered today, it is the ORDER, JUDGMENT, and DECREE of the court as follows:

(1) Defendant City of Ozark, Alabama's objections (doc. no. 41) are overruled.

(2) The United States Magistrate Judge's recommendation (doc. no. 39) is adopted.

(3) Defendant City of Ozark, Alabama's motion to dismiss (doc. no. 11) is granted in part and denied in part, as follows:

(a) The motion to dismiss is granted with prejudice as to the plaintiff's claims against unnamed, fictitious parties; plaintiff's claims for punitive damages and wantonness against defendant City of Ozark; and plaintiff's claims against defendant Gregory Boutwell in his official capacity.

(b) The motion to dismiss is granted without prejudice as to plaintiff's claims against defendant City of Ozark in Counts I-IV and as to his claims against defendant City of Ozark for negligent supervision, training, and evaluation.

(c) The motion to dismiss is denied as to plaintiff's state-law negligence claims against the defendant City of Ozark based on the doctrine of respondeat superior.

(4) Defendant Ozark-Dale County E-911 Board, Inc.'s motion to dismiss (doc. no. 16) is granted in part and denied in part, as follows:

(a) The motion to dismiss is granted without prejudice as to plaintiff's claims against defendant Ozark-Dale County E-911 Board in Counts I-V.

(b) The motion to dismiss is denied as to plaintiff's state-law claims against defendant Ozark-Dale County E-911 Board for punitive damages or damages in excess of \$ 100,000.00.

No parties are dismissed or terminated.

The clerk of the court is DIRECTED to enter this document on the civil docket as a final judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

This case is referred back to the United States Magistrate Judge for further proceedings.

DONE, this the 22nd day of March, 2016.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE