

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
NORTHERN DIVISION

GENIE HARRELL

PLAINTIFF

v.

No. 1:12-cv-20-DPM

INDEPENDENCE COUNTY, ARKANSAS and  
ODUS FULMER, Tax Assessor for Independence  
County, Arkansas, in his Individual Capacity

DEFENDANTS

ORDER

There's some murkiness in the Court's last merits Order, No 60, the parties' 2014 trial briefs, and Harrell's proposed jury instructions about what defendants and claims remain in this case for trial. Everyone agrees that there's a Title VII wrongful-termination claim against Independence County. Because there's no adequate proof of a custom or policy, no § 1983 claim remains against the County. *Davison v. City of Minneapolis, Minnesota*, 490 F.3d 648, 659–661 (8th Cir. 2007). But there is a § 1983 equal protection claim against Fulmer and Potts individually.\* Qualified immunity remains possible; and the Court will rule on that defense at the end of the proof or after trial. But the immunity and merits issues are inextricably intertwined. *Twiggs v. Selig*, 679 F.3d 990, 995 (8th Cir. 2012); *see No 49 at 3*. And the Court having

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\*The Court directs the Clerk to update the docket sheet.

ruled that there are jury questions on why Harrell was fired, *No 60*, the § 1983 claim against Fulmer and Potts, as individuals, necessarily survives. The draft jury instructions and verdicts will cover all this ground.

So Ordered.

D.P. Marshall Jr.  
D.P. Marshall Jr.  
United States District Judge

27 March 2015