

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
JONESBORO DIVISION**

**BRYAN KEITH ROGERS**

**PLAINTIFF**

v.

**No. 3:13-cv-198-DPM**

**CITY OF POCAHONTAS, ARKANSAS;  
CECIL TACKETT, Individually and in his  
Official Capacity as a Chief of Police  
for the Pocahontas Police Department;  
TREY HARE, Individually and in his Official  
Capacity as a Police Officer for Pocahontas  
Police Department; BRIAN TILGHMAN,  
Individually and in his Official Capacity as a  
Police Officer for Pocahontas Police  
Department; and DANE DILAN, Individually  
and in his Official Capacity as a Police  
Officer for Pocahontas Police Department**

**DEFENDANTS**

**ORDER**

Rogers has not responded to Defendants' motion for summary judgment. The Court alerted Rogers and extended his time to do so – noting that the Court would conclude the motion was conceded if no response was filed. *No. 20*. None was. The material facts, *No. 16*, are therefore deemed admitted. LOCAL RULE 56.1(c); *Libel v. Adventure Lands of America, Inc.*, 482 F.3d 1028, 1033 (8th Cir. 2007). Defendants' motion, *No. 15*, is granted as conceded.

The Court sees no constitutional violation during Rogers's arrest. *Graham v. Connor*, 490 U.S. 386, 396–97 (1989). But even if one occurred, Rogers hasn't shown that a municipal policy or custom was the cause. *Monell v. Department of Social Services*, 436 U.S. 658, 691 (1978). And the officers are entitled to qualified immunity for their judgment calls in the circumstances. *Austell v. Sprenger*, 690 F.3d 929, 936 (8th Cir. 2012); see also *Cole v. City of Little Rock*, 131 F.3d 721, 722 (8th Cir. 1997) (recognizing *sua sponte* dismissal based on qualified immunity). The record doesn't create a jury question on failure to train or supervise. *Atkinson v. City of Mountain View, Mo.*, 709 F.3d 1201, 1217 (8th Cir. 2013). The Court sees no Sixth Amendment or Equal Protection violations either. Rogers's echoing claims under the Arkansas Civil Rights Act fail as a matter of law. *Hess v. Ables*, 714 F.3d 1048, 1054 (8th Cir. 2013).

So Ordered.

  
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D.P. Marshall Jr.  
United States District Judge

10 February 2015