

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
SOUTH BEND DIVISION

CATHY MINIX, individually, as)	
the natural guardian of Gregory Zick,)	
and as personal representative of)	
the estate of Gregory Zick; and)	
STEVEN ZICK, individually,)	
)	
Plaintiffs)	
)	
vs.)	CAUSE NO. 3:05-CV-144 RM
)	
FRANK CANARECCI, JR., et al.,)	
)	
Defendants)	

OPINION AND ORDER

This matter is before the court on the plaintiffs' motion for the court to relinquish jurisdiction over the state law claims asserted as to the remaining defendants and enter final judgment on the constitutional claims decided in this court's July 3, 2007 order. [Doc. No. 197].

On November 1, 2006, the court granted, in part, the summary judgment motion filed on behalf of the Madison Center and Christine Lonz, denying the motion with respect to the plaintiffs' claims brought under the privileges and immunities clause [Doc. No. 97]. On June 6, 2007, the court granted, in part, the defendants' motion for judgment on the pleadings, eliminating the plaintiffs' remaining claims against the Madison Center and Christine Lonz [Doc. No. 132]. On July 3, 2007, the court, granted in part and denied in part, the summary judgment motion filed on behalf of the Memorial defendants [Doc. No. 137]. The Memorial defendants, who continued to have federal claims pending, Dr. David

and Memorial Home Care, filed a motion to reconsider [Doc. No. 153], which the court granted on January 26, 2009 [Doc. No. 162]. On February 13, 2009, the court declined to exercise supplemental jurisdiction over the plaintiffs' remaining state law medical malpractice claims [Doc. No. 164].

On March 16, 2009, the court granted a request for entry of final judgment on the federal claims against Madison Center and Christine Lonz pursuant to its orders of June 6, 2007, and as against the Memorial defendants pursuant to its orders of July 3, 2007, and January 26, 2009. [Doc. No. 170]. Since that time, this matter has proceeded only as against the County defendants.

Specific to the several County defendants, the court entered summary judgment, on or about July 3, 2007, on the federal constitutional claims, for Defendants Grahl, Workman, Schroeder, Clifton, Kizer, Williams, Blanton, Kovach, Huber, Orr, Hahn, Johnson, Van Schoiack and the Board of County Commissioners of St. Joseph County. [Doc. No. 137]; the deliberate indifference claim against Sheriff Canarecci, Jr., in his official capacity ("official capacity claim") continued. Thereafter, the Sheriff sought reconsideration of the decision to deny summary judgment on the official capacity claim against him. [Doc. No. 155]. On or about January 26, 2009, the court denied Sheriff Canarecci's motion to reconsider. [Doc. No. 162].

Recently, Sheriff Canarecci, in his official capacity, filed an offer of judgment, allowing judgment to be taken against him in his official capacity, in

the sum of Seventy-Five Thousand Dollars (\$75,000). On or about May 29, 2009, within the time mandated by Fed.R.Civ.P. 68, the plaintiffs filed their Notice of Acceptance of Offer of Judgment and Proof of Service with the Court. [Doc. Nos. 195 and 196]. Pursuant to Fed.R.Civ.P. 68, “the Clerk must enter judgment” against Sheriff Canarecci on the official capacity claim against him.

Accordingly, this court now DIRECTS the clerk to enter judgment for the plaintiffs and against Sheriff Canarecci, in his official capacity, in the sum of Seventy-Five Thousand Dollars (\$75,000).

As to all state law claims asserted against Defendants Canarecci, Grahl, Workman, Schroeder, Clifton, Kizer, Williams, Blanton, Kovach, Huber, Orr, Hahn, Johnson, Van Schoiack and the Board of County Commissioners of St. Joseph County, the court GRANTS the motion to decline pendent jurisdiction [Doc. No. 197], and orders those claims DISMISSED without prejudice.

With no other claims remaining, there is no reason to delay the entry of final judgment on the federal claims decided in favor of the County defendants, with the exception of Sheriff Canarecci, in his official capacity, by the July 3, 2007, Order. [Doc. No. 137]. Accordingly, the court DIRECTS the clerk to enter final judgment against the Plaintiffs and for Defendants Grahl, Workman, Schroeder, Clifton, Kizer, Williams, Blanton, Kovach, Huber, Orr, Hahn, Johnson, Van Schoiack and the Board of County Commissioners of St. Joseph County, on the federal constitutional claims.

SO ORDERED.

Dated: June 18, 2009

/s/ Robert L. Miller, Jr.
Robert L. Miller, Jr., Chief Judge
United States District Court