

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOSHAWA WEBB, ET AL.,)
)
 Plaintiffs,)
)
 Vs.)
)
 THE UNITED STATES OF AMERICA,)
 ET AL.,)
)
 Defendants.)

CASE NO.1:07CV3290

JUDGE CHRISTOPHER A. BOYKO

ORDER

CHRISTOPHER A. BOYKO, J:

This matter is before the Court on the United States of America’s Motion to Substitute Party (ECF 67). The Motion asks the Court to substitute the United States for the individually named federal defendants as the proper party on all of Plaintiffs’ tort claims. Pursuant to 28 U.S.C. §2679(d)(1), and because Plaintiffs’ First Amended Complaint expressly states that the named Defendants were acting within the scope of their employment when they allegedly committed the tortious acts, the Court grants the United States’ Motion and substitutes it for the individually named federal Defendants Robert Cross, Lee Lucas, and Jamaal Ansvari.

28 U.S.C. §2679(d)(1) states:

Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the

incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant.

Attached to its Motion is the certification by Timothy P. Garren of the Department of Justice who certifies that the above named federal defendants were acting within the scope of their employment during the incidents in question. Furthermore, Plaintiffs' First Amended Complaint alleges:

41. All of Defendants' interactions with Mr. Webb and the criminal case brought against him were undertaken under color of law, and within the scope of their employment.

42. Because Defendants Chuck Metcalf, Matt Mayer, Larry Faith, John Doe Richland County Sheriff's Deputies, John Doe Mansfield Police Officers, and John Doe DEA agents, acted within the scope of their employment, Richland County, Ohio, the City of Mansfield, Ohio, and the United States are therefore liable as their employers for any resulting damages and award of attorneys' fees.

Therefore, because the United States has so certified and Plaintiffs have alleged that the named federal employees acted within the scope of their employment, the Court grants the United States' Motion and substitutes the United States for the federal defendants on all Plaintiffs' tort claims.

IT IS SO ORDERED.

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

September 9, 2009