

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

ERNESTO GONZALES, et al.,

Plaintiffs,

Case No. 3:13 CV 796

-vs-

MEMORANDUM OPINION

CITY OF FOSTORIA, et al.,

Defendant.

KATZ, J.

Ernesto Gonzales, Angelica Hernandez, and Minor Child X filed a civil rights action pursuant to 42 U.S.C. § 1983 against the City of Fostoria, Ohio, the Fostoria Police Department, and the following individuals: Detective Matthew Armstrong, Officer Cory Brian, Officer Lucas Elchert, Officer Adam Nelson, Detective Charles Boyer, Detective Gabriel Wedge, Police Chief Charles Horn, Officer Brandon Bell, Officer Dustin Nowak, and Officer Justin Nowak. The plaintiffs alleged that the defendants violated their civil rights under multiple constitutional amendments. The plaintiffs also alleged several state-law claims.

On January 9, 2014, this Court dismissed the plaintiffs' federal claims against the City of Fostoria, the City of Fostoria Police Department, Elchert, Nelson, Bell, Wedge, and Armstrong for failure to state a claim upon which relief could be granted pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. No. 51). Brian's motion to dismiss, construed as a motion for summary judgment pursuant to Federal Rule of Civil Procedure 56(a), was also granted as to plaintiffs' federal claims. The motion to dismiss plaintiffs' state-law claims of assault and battery, infliction of emotional distress, and conspiracy against the City of Fostoria, the City of Fostoria Police Department, Brian, Elchert, Nelson, Bell, Wedge, and Armstrong was held in

abeyance. Finally, Plaintiffs' motion to amend their complaint was denied as to all defendants.

Following this Court's decision, the case remained open as to plaintiffs' supplemental state-law claims against all the defendants. In addition, plaintiffs' federal claims remained against defendants Boyer, Horn, Dustin Nowak, and Justin Nowak. On January 26, 2014, the plaintiffs filed a notice of appeal to the United States Court of Appeals for the Sixth Circuit. (Doc. No. 54). The plaintiffs and defendants Boyer, Horn, Dustin Nowak, and Justin Nowak then filed a joint motion to voluntarily dismiss, with prejudice, all pending claims as to these defendants. (Doc. Nos. 56, 57). The Sixth Circuit subsequently granted plaintiffs' motion to voluntarily dismiss their appeal on February 24, 2014. *Gonzales v. City of Fostoria*, No. 14-3085, slip op. at 1 (6th Cir. Feb. 24, 2014) (Doc. No. 58).

With the dismissal of all plaintiffs' state and federal claims against defendants Boyer, Horn, Dustin Nowak, and Justin Nowak, only plaintiffs' state-law claims against the City of Fostoria, the City of Fostoria Police Department, Brian, Elchert, Nelson, Bell, Wedge, and Armstrong remain pending. This Court stated in its January 19 order that because the federal claims against Boyer, Horn, Dustin Nowak, and Justin Nowak were still pending, the Court would not decide whether to exercise supplemental jurisdiction over the state-law claims. The joint stipulation removes this barrier, permitting the Court to address the issue of whether to exercise jurisdiction over plaintiffs' state-law claims against the City of Fostoria, the City of Fostoria Police Department, Brian, Elchert, Nelson, Bell, Wedge, and Armstrong.

Twenty-eight U.S.C. § 1367(c)(3) allows this Court to decline to exercise supplemental jurisdiction over state-law claims if this Court "has dismissed all claims over which it has original jurisdiction" Because all federal claims have now been dismissed, the Court exercises its discretion and declines supplemental jurisdiction over the remaining state-law

claims. *Wee Care Child Ctr., Inc. v. Lumpkin*, 680 F.3d 841, 849 (6th Cir. 2012). Therefore, plaintiffs' state-law claims against the City of Fostoria, the City of Fostoria Police Department, Brian, Elchert, Nelson, Bell, Wedge, and Armstrong are dismissed without prejudice.

CONCLUSION

Accordingly, plaintiffs' state-law claims against the City of Fostoria, the City of Fostoria Police Department, Brian, Elchert, Nelson, Bell, Wedge, and Armstrong are dismissed without prejudice (Doc. Nos. 32, 51), and the case is hereby dismissed

IT IS SO ORDERED.

S/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE