

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

**ZACHARY ROWELL, as Special
Administrator in the matter of the estate
of Marvin A. Rowell, and individually,**)

Plaintiff,)

v.)

Case No. CIV-18-125-RAW

**BOARD OF COUNTY
COMMISSIONERS OF MUSKOGEE
COUNTY, OKLAHOMA, et al.,**)

Defendants.)

ORDER

Before the court is the motion of defendant Board of County Commissioners of Muskogee County for summary judgment. This lawsuit commenced in the District Court for Muskogee County. The case was removed to this court by defendant on April 20, 2018. Plaintiff Zachary Rowell (“Zachary”) filed a third amended complaint (#45) on July 18, 2018.

Plaintiff brings a claim against the Board pursuant to 42 U.S.C. §1983 and a state-law a claim pursuant to Art. 2, §30 of the Oklahoma Constitution. In a companion order, the court described the factual record and granted the motion for summary judgment of defendant Dakota West. The court found that, even viewing the record in the light most

favorable to the plaintiff, West did not commit a constitutional violation. Accordingly, the §1983 claim against the Board necessarily fails. *See Burke v. Regalado*, 935 F.3d 960, 1010 (10th Cir.2019)(citing *Martinez v. Beggs*, 563 F.3d 1082 (10th Cir.2009)).

Accordingly, only a state-law claim remains pending against the Board. “When all federal claims have been dismissed, the court may, and usually should, decline to exercise jurisdiction over any remaining state claims.” *Smith v. City of Enid*, 149 F.3d 1151, 1156 (10th Cir.1998). *See* 28 U.S.C. §1367(c)(3). As this case was removed from state court, the state-law claim will be remanded.

It is the order of the court that the motion for summary judgment of defendant Muskogee Board of County Commissioners (#85) is hereby granted in part. Plaintiff’s federal claim is dismissed. Plaintiff’s state-law claim is remanded to the District Court for Muskogee County, State of Oklahoma. All other pending motions are deemed moot.

IT IS SO ORDERED this 22nd day of OCTOBER, 2019.



RONALD A. WHITE
UNITED STATES DISTRICT JUDGE