

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

TABATHA BARNES, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	NO. CIV-16-0184-HE
	)	
CITY OF OKLAHOMA CITY, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiffs filed this case alleging various claims against defendant Daniel Holtzclaw, a former Oklahoma City police officer. They also assert claims against the City of Oklahoma City, its police chief, and certain individual officers based on alleged deficiencies in the hiring, training, supervision, and investigation of Holtzclaw. One of those officers is defendant Rocky Gregory, an OCPD detective assigned to the sex crimes unit at the time of the investigation at issue in this case. The remaining claims against Detective Gregory appear to be ones for conspiracy to violate plaintiffs’ constitutional rights and for failure to supervise as well as municipal liability claims for ratification and failure to supervise.<sup>1</sup>

Defendant Gregory has moved for summary judgment as to all claims against him. Plaintiffs have failed to respond to the motion. Failure to respond to a motion for summary judgment “is not, by itself, a sufficient basis on which to enter judgment against the party.”

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<sup>1</sup> The court previously granted Gregory’s motion to dismiss plaintiffs’ state law claim against him for unlawful search and seizure. See Doc. #27.


Reed v. Bennett, 312 F.3d 1190, 1195 (10th Cir. 2002). “Summary judgment is appropriate only if the moving party demonstrates that no genuine issue of material fact exists and that it is entitled to judgment as a matter of law.” *Id.* Material facts asserted and properly supported in an unopposed motion for summary judgment are accepted as true for purposes of determining whether the moving party is entitled to judgment as a matter of law. *Id.*

Here, Gregory’s assertions of material fact are sufficiently supported. He has presented evidence of his investigative efforts after the Morris complaint was assigned to him, all inconsistent with any conspiracy to interfere with plaintiffs’ rights, and there is nothing in the circumstances generally to suggest any such conspiracy. Further, he has offered evidence that he was never defendant Holtzclaw’s supervisor, with the result that there is no basis for any purported failure to supervise claim as to him. Finally, he has shown that there is no basis for the municipal liability claims against him as he is not a policy maker for the City. As the submitted evidence is sufficient to support summary judgment based on the substance of the claimed violations, it is unnecessary to consider whether the “clearly established” element of the qualified immunity defense would also lead to the same conclusion. Defendant Gregory is entitled to judgment as a matter of law.

Accordingly, defendant Gregory’s Motion for Summary Judgment [Doc. #371] is **GRANTED**. Final judgment in favor of Gregory and against plaintiffs will be entered at the conclusion of the case.

**IT IS SO ORDERED.**

Dated this 29<sup>th</sup> day of November, 2021.

  
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JOE HEATON  
UNITED STATES DISTRICT JUDGE