

***UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

OBERIST SAUNDERS,

Plaintiff,

v.

Case No: 6:14-cv-877-Orl-31DCI

**SHERIFF OF BREVARD COUNTY,
SUSAN JETER, JOHN C. WRIGHT and
PATRICIA TILLEY,**

Defendants.

ORDER

This Matter comes before the Court on the “Motion by Defendant Sheriff to Amend Joint Pretrial Statement as to Issues to be Tried, and Associate Motion for Summary Judgment based on Law of the Case” (Doc. 231) and the Memorandum in Opposition (Doc. 234).

The instant Motion follows the Eleventh Circuit’s reversal of this Court’s denial of summary judgment on the issue of qualified immunity as to Defendants Jeter and Wright. The Sheriff asks the Court to (1) “authorize an amendment of the Amended Joint Final Pretrial Statement (Doc. 226) to reflect Defendant Sheriff’s position as to application of the doctrine of the law of the case resulting from the unpublished opinion of the Eleventh Circuit reversing the order denying summary judgment as to qualified immunity earlier in this case and (2) grant summary judgment as to all the conditions of confinement claims because “in the absence of an underlying constitutional violation, there can be no *Monell* liability.” Doc. 231 at 1-2.

The Eleventh Circuit carefully explained the distinction between the qualified immunity and *Monell* analyses, noting that “if officers violated a plaintiff’s constitutional rights but those rights were not ‘clearly established,’ then *Monell* liability could survive even though qualified immunity

would preclude individual liability.” *Saunders v. Sheriff of Brevard Cty.*, 735 F. App'x 559, 563 (11th Cir. 2018), *cert. denied sub nom. Saunders v. Ivey*, 139 S. Ct. 1325 (2019). The Eleventh Circuit deliberately declined to analyze *Monell* liability, and it did not find that there was a total lack of constitutional violations. Accordingly, the Court finds no reason to permit amendment of the joint pretrial statement or to grant summary judgment. The Defendant Sheriff’s Motion (Doc. 231) is **DENIED**.

DONE and **ORDERED** in Chambers, Orlando, Florida on July 9, 2019.




GREGORY A. PRESNELL
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party