

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF ALABAMA
 SOUTHERN DIVISION

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 U.S. DISTRICT COURT
 N.D. OF ALABAMA

SANDY SKURSTENIS,	}	
	}	
Plaintiff	}	
	}	CIVIL ACTION NO.
vs.	}	
	}	98-AR-2295-S
SHERIFF JAMES JONES, ET AL.,	}	
	}	
Defendants	}	

chw

ENTERED

OCT 19 1998

ORDER

The above-entitled action as against Shelby County, Alabama, having been dismissed on October 13, 1998, the first-named defendant in the style of the case shall hereinafter be Sheriff James Jones, individually.

The motion to dismiss filed by defendant, Shelby County Baptist Hospital ("Shelby Baptist"), which asserts that it is incorrectly named but which does not provide its correct name, was set on this court's regular motion docket on October 16, 1998. Plaintiff, Sandy Skurstenis, did not request oral argument and filed no response to Shelby Baptist's motion. Because *respondeat superior* liability does not exist under 42 U.S.C. § 1983, the only statute upon which plaintiff bases her federal claim, Shelby Baptist's motion as to § 1983 is well taken and is **GRANTED**.

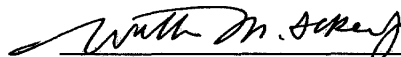
There is no allegation, and could be no allegation, that some

15

allegedly deficient "jail policy" of defendant, Sheriff James Jones, whatever it might be, can be attributed to Shelby Baptist for purposes of by-passing *Monell v. New York City Dept. of Social Servs.*, 436 U.S. 658, 98 S. Ct. 2018 (1978). There is no allegation that Shelby Baptist, a corporation, ever participated in the formation of "jail policy," particularly a policy which constitutes excessive force and/or illegal search. The ^{federal} action as against Shelby Baptist, by whatever name, is hereby **DISMISSED WITH PREJUDICE**.

The action against Shelby Baptist under the state tort theory of assault and battery, as contained in Count II, is **DISMISSED WITHOUT PREJUDICE** for lack of a federal claim upon which to append it.

DONE this 19th day of October, 1998.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE