

**IN THE COURT OF APPEALS
OF THE
STATE OF MISSISSIPPI
NO. 1999-CA-00295-COA**

**JAMES JOSEPH WILLIAMS, INDIVIDUALLY AND JETTIE WILLIAMS,
INDIVIDUALLY AND JETTIE WILLIAMS, CONSERVATOR OF THE
ESTATE OF JAMES JOSEPH WILLIAMS** **APPELLANTS**

v.

**LEE COUNTY, MISSISSIPPI AND LEE COUNTY, MISSISSIPPI BOARD OF
SUPERVISORS** **APPELLEES**

DATE OF JUDGMENT: 01/08/1999
TRIAL JUDGE: HON. THOMAS J. GARDNER III
COURT FROM WHICH APPEALED: LEE COUNTY CIRCUIT COURT
ATTORNEYS FOR APPELLANTS: JOHN FORREST MARTIN
KIM T. CHAZE
ATTORNEYS FOR APPELLEES: WILLIAM M. BEASLEY
GREGORY M. HUNSUCKER
NATURE OF THE CASE: CIVIL - TORTS - OTHER THAN PERSONAL INJURY
AND PROPERTY DAMAGE
TRIAL COURT DISPOSITION: DISMISSAL OF ACTION ON BASIS OF COLLATERAL
ESTOPPEL AND RES JUDICATA
DISPOSITION: AFFIRMED-2/08/00
MOTION FOR REHEARING FILED:
CERTIORARI FILED:
MANDATE ISSUED: 2/29/2000

BEFORE KING, P.J., BRIDGES, AND MOORE, JJ.

KING, P.J., FOR THE COURT:

¶1. This appeal is taken from a motion to dismiss for failure to state a claim upon which relief could be granted. Aggrieved by this dismissal, Jettie Williams, conservator of the estate of James Joseph Williams perfected this appeal. Williams raised one assignment of error which is quoted verbatim from her brief: It was reversible error for the Circuit Court to grant the Defendants' Motion to Dismiss.

¶2. We affirm the dismissal.

FACTS

¶3. In June 1995, Williams filed a complaint (*Williams I*) in the Lee County, Mississippi Circuit Court alleging violations of rights under 42 U.S.C. § 1983 naming the Lee County Sheriff's Department and three of its deputies as defendants. The defendants in *Williams I* filed a motion for summary judgment which was granted and the case was dismissed. Williams appealed that order to the Mississippi Supreme Court which affirmed the judgment of the trial court. In January 1998, while *Williams I* was pending before the Mississippi Supreme Court, Williams filed a new complaint (*Williams II*) alleging the same violations of rights under 42 U.S.C. § 1983 but now naming Lee County and the Lee County Board of Supervisors as defendants. In March 1998, the defendants, Lee County and the Lee County Board of Supervisors, filed a Motion to Dismiss for failure to state a claim upon which relief could be granted. In January 1999, the lower court granted the defendants' motion and dismissed *Williams II* based on the principles of collateral estoppel and res judicata.

ANALYSIS

I.

It was reversible error for the Circuit Court to grant the Defendant's Motion to Dismiss.

¶4. Subsequent to this appeal, the Mississippi Supreme Court on July 29, 1999 ruled on *Williams I*. The Mississippi Supreme Court said "a governmental entity is only liable under §1983 only for injuries caused by a municipal policy or custom." *Williams v. Lee County Sheriff's Dep't*, 98-CA-00184-SCT (¶34) (Miss. 1999). The court went further to say "there has been absolutely no showing of any official policy of Lee County which led to any constitutional deprivation." *Id.* The court affirmed the decision of the Lee County Circuit Court granting the defendants's motion for summary judgment thereby finding no liability on behalf of the Lee County Sheriff's Department or the three named Lee County deputies. As a result of that ruling, the issues before this Court are now moot.

¶5. THE JUDGMENT OF THE LEE COUNTY CIRCUIT COURT IS AFFIRMED. COSTS OF THIS APPEAL ARE ASSESSED TO THE APPELLANTS.

McMILLIN, C.J., SOUTHWICK, P.J., BRIDGES, IRVING, LEE, MOORE, PAYNE, AND THOMAS, JJ., CONCUR. DIAZ, J., CONCURS IN RESULT.