

United States Court of Appeals
For the Eighth Circuit

No. 16-2640

Charles Benjamin,

Plaintiff - Appellant,

v.

Ward County,

Defendant - Appellee.

Appeal from United States District Court
for the District of North Dakota - Bismarck

Submitted: February 22, 2017

Filed: February 27, 2017

[Unpublished]

Before COLLOTON, ARNOLD, and KELLY, Circuit Judges.

PER CURIAM.

In this 42 U.S.C. § 1983 action, Charles Benjamin appeals the district court's¹ adverse grant of summary judgment on his Fourteenth Amendment deliberate-indifference claim against Ward County, North Dakota, arising out of his pretrial detention in the Ward County Jail.

After carefully reviewing the record and the parties' arguments on appeal, we conclude that summary judgment was warranted because Benjamin's assertion of a custom, giving rise to Ward County's liability, failed as a matter of law. *See Beaulieu v. Ludeman*, 690 F.3d 1017, 1024 (8th Cir. 2012) (grant of summary judgment is reviewed de novo); *Riehm v. Engelking*, 538 F.3d 952, 962-63 (8th Cir. 2008) (county liability requires custom or policy); *Mettler v. Whitledge*, 165 F.3d 1197, 1204 (8th Cir. 1999) (discussing standard for showing existence of custom); *see also Polk Cty. v. Dodson*, 454 U.S. 312, 325 (1981) (§ 1983 will not support claim based on respondeat superior theory of liability). We also conclude that Benjamin could not survive summary judgment by relying upon a failure-to-train theory of liability. *See City of Canton v. Harris*, 489 U.S. 378, 388-89 (1989) (discussing standard for failure-to-train liability under § 1983). Accordingly, we affirm. *See* 8th Cir. R. 47B.

¹The Honorable Charles S. Miller, Jr., United States Magistrate Judge for the District of North Dakota, to whom the case was referred for final disposition by consent of the parties pursuant to 28 U.S.C. § 636(c).