

United States Court of Appeals
For the Eighth Circuit

No. 25-2470

Wendy Guida, in her capacity as mother to and as Trustee for the Next of Kin of
Andrew Stratton, Deceased,

Plaintiff - Appellant,

v.

Cass County, Nebraska; Elliot Schmidt, in his individual capacity as a Cass
County Deputy Sheriff; Karl Boehm, in his individual capacity and as a Cass
County Deputy Sheriff; Mike McKnelly, in his individual capacity as a Cass
County Deputy Sheriff,

Defendants - Appellees.

Appeal from United States District Court
for the District of Nebraska - Omaha

Submitted: March 18, 2026

Filed: August 20, 2026

Before COLLOTON, Chief Judge, GRUENDER and KOBES, Circuit Judges.

COLLTON, Chief Judge.

This appeal arises from a fatal shooting that occurred after sheriff's deputies responded to an emergency call in Cass County, Nebraska. Wendy Guida, the mother of the decedent, brought this action under 42 U.S.C. § 1983. She alleged that three officers violated the decedent's constitutional right to be free from an unreasonable seizure. Guida also sued Cass County as the employer of the officers. The district court dismissed Guida's claims for lack of subject-matter jurisdiction and alternatively granted summary judgment for the defendants. We conclude that the court has jurisdiction, but affirm on the ground that the officers did not violate the decedent's constitutional rights.

On February 13, 2022, Gregg Stratton called 911 to report that his son, Andrew Stratton, had struck Gregg in the face during an argument. Andrew, whom we will call "Stratton," lived in the basement of Gregg's home in Cass County. Gregg explained that Stratton had mental health issues and requested assistance from officers. Stratton's history included a diagnosis of paranoid schizophrenia.

Deputy Elliot Schmidt, Deputy Michael McKnelly, and Sergeant Karl Boehm from the Cass County Sheriff's Department responded. Gregg described the altercation to the officers. He also told the officers that Stratton was behaving erratically and had not been taking his prescribed medication. Gregg gave the officers permission to search his house to locate Stratton. Gregg warned the officers that Stratton might have access to a bow and arrows, but Gregg believed that all guns in the home were locked in a gun safe. Gregg requested that responding officers interview Stratton and consider placing him in emergency protective custody.

The officers believed that they had probable cause to arrest Stratton for assault. While the officers searched the home, they called out to Stratton to make himself known. Stratton responded from the basement. While standing at the top of the

basement stairs, Schmidt repeatedly asked Stratton to come out of the basement. Stratton's responses were combative, profane, and sometimes delusional. Stratton told the officers to leave. He also claimed that he killed Osama bin Laden, possessed a "nuclear weapon," and was armed with a bow and arrow. During the exchange between Stratton and Schmidt, McKnelly moved outside to watch the rear basement door.

After approximately ten minutes, Stratton stopped responding to Schmidt. Schmidt and Boehm descended the stairs. Schmidt was armed with an assault rifle, and Boehm held a Taser. No lights were on in the basement, so Schmidt used his flashlight.

When Schmidt reached the bottom of the stairs, he looked down the hallway and observed Stratton standing approximately thirty feet away "holding a camouflaged compound hunting bow in his left hand while drawing the string back with his right hand." Schmidt immediately yelled for Stratton to "keep your hands where I can see them." Stratton then pulled the arrow back toward his face, with the arrow pointed at Schmidt. Schmidt fired multiple shots from his rifle at Stratton. After firing, Schmidt stated to Boehm, "He drew on me with a bow." The officers administered first aid, but Stratton died almost immediately.

Guida sued Cass County and the responding officers under 42 U.S.C. § 1983. She alleged that the officers violated Stratton's rights under the Fourth and Fourteenth Amendments by using unreasonable and excessive force. Guida also brought claims against the county for allegedly failing adequately to train and supervise the deputies.

The defendants moved for summary judgment. Before addressing the reasonableness of the seizure, the district court on its own initiative addressed Guida's standing to sue. The court determined that Guida lacked standing because

she did not allege that she was authorized to bring claims on behalf of her son under Nebraska law. Alternatively, the court determined that the officers and the county were entitled to summary judgment on the merits.

On appeal, Guida first challenges the district court's determination on subject-matter jurisdiction. The court determined that it lacked jurisdiction because Guida did not bring the suit as the personal representative of Andrew Stratton under Neb. Rev. Stat. §§ 30-810, 30-2464(c). Guida contends that the cited defect under Nebraska law concerned only the identity of the real party in interest, and that the district court should have provided Guida with a reasonable opportunity to cure the defect. *See* Fed. R. Civ. P. 17(a).

Guida filed the complaint "in her capacity as the mother of Andrew Stratton, and as Trustee for the next of kin of Andrew Stratton." The federal civil rights statute borrows from state law to furnish suitable remedies for a violation of rights. 42 U.S.C. § 1988(a). As the district court observed, Guida's complaint appears to include elements of both a wrongful death action and a survival action under Nebraska law. Either type of action, however, may be brought only by a personal representative of a decedent. *In re Trust Created by Hansen*, 739 N.W.2d 170, 180 (Neb. 2007); *In re Estate of Panec*, 864 N.W.2d 219, 225 (Neb. 2015). Guida did not allege that she is her son's personal representative, so she lacked standing to sue under state law. *See Estate of Guled v. City of Minneapolis*, 869 F.3d 680, 683-84 (8th Cir. 2017); *Andrews v. Neer*, 253 F.3d 1052, 1058 (8th Cir. 2001).

As suggested in *Wilkinson v. United States*, 440 F.3d 970, 977 n.7 (8th Cir. 2006), however, whether Guida has standing to sue under state law is better characterized as a matter of prudential standing. *See Ensley v. Cody Res., Inc.*, 171 F.3d 315, 320 (5th Cir. 1999). If Guida is not a personal representative of the decedent, then she does not have a cause of action, but "the absence of a valid . . .

cause of action does not implicate subject-matter jurisdiction.” *Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 128 n.4 (2014).

The district court did possess subject-matter jurisdiction over the case, because Guida established a case or controversy under Article III of the Constitution. She alleged an injury in fact from the wrongful death of her child. *Arbaugh v. Altimus*, 26 F.4th 298, 304 (5th Cir. 2022); *Jones v. Prince George’s Cnty.*, 348 F.3d 1014, 1018 (D.C. Cir. 2003). She asserted that the defendants caused the injury, and that an award of damages from the defendants would redress the injury. She therefore established Article III standing to sue.

Under the rules of civil procedure, a district court may not dismiss an action for failure to prosecute in the name of the real party in interest—here, in the name of a personal representative—until “a reasonable time has been allowed for the real party in interest to ratify, join, or be substituted into the action.” Fed. R. Civ. P. 17(a)(3). We agree with Guida that the district court should have afforded this opportunity under Rule 17(a) before dismissing the action based on lack of prudential standing. *See Jones v. Las Vegas Metro. Police Dep’t*, 873 F.3d 1123, 1128-29 (9th Cir. 2017).

The district court concluded alternatively that the defendants were entitled to summary judgment on the merits. That secondary question has been fully briefed in this court, but there is an obstacle to our consideration of the matter: The defendants did not file a cross-appeal seeking an expansion of the district court’s judgment in their favor. The district court dismissed the action *without* prejudice; a determination that the defendants are entitled to summary judgment on the merits would effectively direct a dismissal *with* prejudice. It is well settled, however, that “an appellate court may not alter a judgment to benefit a nonappealing party,” *Greenlaw v. United States*, 554 U.S. 237, 244 (2008), and this rule prevents a court of appeals from converting a dismissal without prejudice to a dismissal with prejudice in favor of a party who did

not appeal. *E.g.*, *In re Breland*, 989 F.3d 919, 922-23 (11th Cir. 2021); *Delgado-Caraballo v. Hosp. Pavia Hato Rey, Inc.*, 889 F.3d 30, 39 n.15 (1st Cir. 2018); *June v. Union Carbide Corp.*, 577 F.3d 1234, 1248 n.8 (10th Cir. 2009); *Conover v. Lein*, 87 F.3d 905, 908 (7th Cir. 1996); *Arvie v. Broussard*, 42 F.3d 249, 250 (5th Cir. 1994) (per curiam); *see* 15A Charles A. Wright, Arthur R. Miller & Edward H. Cooper, *Federal Practice and Procedure* § 3904, at 266-69 (3d ed. 2022).

We therefore vacate the district court’s judgment dismissing the action without prejudice for lack of subject-matter jurisdiction, and remand the case for further proceedings.
