

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF  
OKLAHOMA

Grant A. Carpenter, as Special Administrator of the Estate of Ricky  
Wayne Franks, deceased v. City of Bartlesville, Oklahoma and  
Braxton Bowers

Carpenter · No. 25-cv-00153-SH · Decided March 16, 2026

SUMMARY

The court partially grants and partially denies defendants' motion to dismiss in an action arising from the shooting death of Ricky Wayne Franks by a Bartlesville police officer. The court dismisses without prejudice the plaintiff's state-law claims against the City of Bartlesville for failure to provide timely notice under the Oklahoma Governmental Tort Claims Act. The court declines to dismiss the remaining claims for untimely service and permits the late service because defendants were properly served, suffered no apparent prejudice, and dismissal could bar the § 1983 claims under the statute of limitations.

CASE DETAILS

|                       |                                                                                                                                                                                                                                                                                                                                                         |
|-----------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Northern District of Oklahoma                                                                                                                                                                                                                                                                                      |
| WRITING FOR THE COURT | Susan E. Huntsman, Magistrate Judge                                                                                                                                                                                                                                                                                                                     |
| JURISDICTION          | United States District Court for the Northern District of Oklahoma                                                                                                                                                                                                                                                                                      |
| DECIDED               | March 16, 2026                                                                                                                                                                                                                                                                                                                                          |
| DOCKET                | 25-cv-00153-SH                                                                                                                                                                                                                                                                                                                                          |
| DISPOSITION           | other                                                                                                                                                                                                                                                                                                                                                   |
| PROCEDURAL POSTURE    | Defendants moved to dismiss the complaint for untimely service of process and, as to the City, for failure to provide timely pre-suit notice under the Oklahoma Governmental Tort Claims Act. The court granted the motion in part and denied it in part.                                                                                               |
| STANDARD OF REVIEW    | For a factual Rule 12(b)(1) attack, the court does not presume the complaint's jurisdictional allegations are true and may consider evidence outside the pleadings. Under Rule 4(m), the court first determines whether good cause requires a mandatory extension and, if not, considers whether a permissive extension is warranted in its discretion. |
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## TOPICS

service of process

subject matter jurisdiction

section 1983

government liability

civil procedure

## PRACTICE AREAS

civil procedure

civil rights

constitutional law

municipal law

torts

## QUESTIONS PRESENTED

1. Whether Plaintiff's state-law claims against the City were barred for lack of timely pre-suit notice under the Oklahoma Governmental Tort Claims Act, thereby depriving the court of subject-matter jurisdiction.
2. Whether the action should be dismissed because Defendants were served seven days after the Rule 4(m) 90-day service period.
3. Whether the court should exercise its discretion to extend the time for service under Rule 4(m) despite the absence of good cause.

## HOLDINGS

1. Timely pre-suit notice under the Oklahoma Governmental Tort Claims Act is a mandatory prerequisite and jurisdictional requirement for a tort claim against a covered governmental entity. Because Plaintiff's notice was delivered more than one year after the loss, the court lacked subject-matter jurisdiction over the state-law claims against the City, which were dismissed without prejudice.
2. Dismissal was not appropriate based on Plaintiff's seven-day delay in serving Defendants. The court had authority to extend the service deadline, and the circumstances supported a permissive extension.

## KEY QUOTATIONS

*"This notice "is considered a mandatory prerequisite and jurisdictional requirement" to filing a claim in court." (at 3)*

*"When considering a Rule 4(m) motion, the Court engages in a two-step inquiry." (at 5)*

## FACTUAL BACKGROUND

Ricky Wayne Franks died on July 5, 2023, after being shot by Braxton Bowers, an officer of the Bartlesville Police Department. The City of Bartlesville provides the police department and employs Bowers. Plaintiff provided pre-suit notice to the City on July 8, 2024, more than one year after Franks's death. Plaintiff served the City and Bowers on July 7, 2025, approximately one week after the Rule 4(m) service period had expired.

## PROCEDURAL HISTORY

Plaintiff's predecessor filed the action on April 1, 2025, asserting a 42 U.S.C. § 1983 Fourth Amendment claim, a state-law negligence claim, and an Oklahoma constitutional excessive-force claim. After the estate was probated,

the court substituted Grant A. Carpenter as special administrator. The court previously ordered Plaintiff to file returns of service or show good cause; Plaintiff filed returns showing that both Defendants had been served on July 7, 2025. On Defendants' subsequent motion to dismiss, the court dismissed the state-law claims against the City without prejudice for untimely OGTCA notice and denied dismissal based on late service.

## DISPOSITION

other

## CASES CITED

- Crawford v. OSU Med. Tr., 2022 OK 25, ¶ 5, 510 P.3d 824, 829
- Watkins v. Cent. State Griffin Mem'l Hosp., 2016 OK 71, ¶ 23, 377 P.3d 124, 130-31
- Ruiz v. McDonnell, 299 F.3d 1173, 1180 (10th Cir. 2002)
- Pueblo of Jemez v. United States, 790 F.3d 1143, 1151 (10th Cir. 2015)
- Maestas v. Lujan, 351 F.3d 1001, 1013 (10th Cir. 2003)
- United States v. Rodriguez-Aguirre, 264 F.3d 1195, 1203 (10th Cir. 2001)
- Brereton v. Bountiful City Corp., 434 F.3d 1213, 1218 (10th Cir. 2006)
- Jenkins v. City of Topeka, 136 F.3d 1274, 1275 (10th Cir. 1998)
- Espinoza v. United States, 52 F.3d 838, 840-42 (10th Cir. 1995)
- Beauprez v. Bayer Healthcare Pharms., Inc., No. CV 14-649 JCH/CG, 2015 WL 11111298, at \*2 (D.N.M. Aug. 21, 2015)
- DatRec, LLC v. AllegianceMD Software, Inc., No. 21-CV-543-TCK-JFJ, 2022 WL 2758527, at \*2 (N.D. Okla. July 14, 2022)
- Sims v. Knight-Ridder Fin., Inc., No. 94-2217-JWL, 1995 WL 88233, at \*2 (D. Kan. Feb. 10, 1995)
- Lawson v. Okmulgee Cnty. Crim. Just. Auth., 726 F. App'x 685, 690 (10th Cir. 2018)
- Jones v. High Plains HCA, LLC, No. 2:24-CV-1088 SMD/GBW, 2025 WL 2776980, at \*4 (D.N.M. Sept. 26, 2025)
- NCMIC Ins. Co. v. Brown, No. 17 CV 1000 JAP/CG, 2018 WL 1508550, at \*3 (D.N.M. Mar. 26, 2018)