

**In the
United States Court of Appeals
for the Eighth Circuit**

JAMES L. DEAN, et al.,

Appellants,

v.

COUNTY OF GAGE, NEBRASKA, a Nebraska political subdivision, et al.,

Appellees,

RICHARD T. SMITH, in his official and individual capacities, et al.,

JAMES L. DEAN, et al.,

Appellees,

v.

COUNTY OF GAGE, NEBRASKA, a Nebraska political subdivision,
BURDETTE SEARCEY, Dep., in his official and individual capacities, et al.,

Appellants,

RICHARD T. SMITH, in his official and individual capacities, et al.

Appeals from the United States District Court
for the District of Nebraska - Lincoln, Nos. 4:09-cv-03144-RGK, 4:09-cv-03145-RGK,
4:09-cv-03146-RGK, 4:09-cv-03147-RGK, 4:09-cv-03148-RGK, 4:11-cv-03099-RGK)
The Honorable **Richard G. Kopf**, Judge Presiding.

**BRIEF OF APPELLEES/CROSS-APPELLANTS
COUNTY OF GAGE, BURDETTE SEARCEY, WAYNE R. PRICE, Ph.D.,
and RYAN L. TIMMERMAN**

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SUMMARY OF THE CASE AND ORAL ARGUMENT

Burdette Searcey, Jerry DeWitt (now deceased) and Dr. Wayne Price (collectively "OFFICERS"), cross-appeal from an order on a Rule 50 Motion denying them qualified immunity following a three week trial that ended in mistrial. Joseph White (now deceased), Thomas Winslow, Ada Joann Taylor, Debra Sheldon, Kathleen Gonzalez and James Dean (collectively "BEATRICE6") filed federal civil rights suit claiming, *inter alia*, their substantive due process rights under the Fourteenth Amendment to the U.S. Constitution were violated. They alleged OFFICERS conducted an investigation so reckless it shocked the conscience in violation of their substantive due process rights and OFFICERS manufactured evidence to convict them in 1989 of the 1985 Helen Wilson Rape/Homicide. Ultimately, the trial concluded in a mistrial as the jury could not reach a verdict. Following the BEATRICE6's case-in-chief and the OFFICERS' rest, OFFICERS moved for Judgment as a Matter of Law under Rule 50a(1) and (2). The Court granted the motion as to the County and the conspiracy claim under Rule 50(a)(1). Stating that the counsel for the OFFICERS was "preaching to the choir," the district court reluctantly denied the Rule 50(a)(2) motion on qualified immunity. A written Order was filed denying a Motion for Judgment as a Matter of Law under Rule 50(b) based upon qualified immunity. Oral argument is necessary in this matter, and Appellees/Cross-Appellants would request 15 minutes.