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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 24-30723

[DATE STAMP]
United States Court of Appeals
Fifth Circuit
FILED
November 4, 2025
Lyle W. Cayce Clerk

ARCHIE WILLIAMS,
Plaintiff—Appellant,

versus

CITY OF BATON ROUGE; ALFRED CHARLES MONDRICK, *Former Detective*; MARJORIE GROHT, *Former Detective*; STEVEN WOODRING, *Former Detective*; PATRICK LANE, *Former Forensic Scientist*; SYBIL GUIDRY, *Former Investigator for the Office of the District Attorney for the East Baton Rouge Parish*; JERRY MILLER, *Former Forensic Scientist*,
Defendant—Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:20-CV-162

Before JONES, STEWART, and RAMIREZ, *Circuit Judges*.

PER CURIAM:[*]

Archie Williams brought this lawsuit under 42 U.S.C. § 1983 against the City of Baton Rouge (the "City") and former detectives of the Baton Rouge Police Department, Alfred Charles Mondrick, Marjorie Groht, and Steven Woodring (collectively, the "Police Defendants"). Williams also sued former forensic scientists of the Louisiana State Police Crime Laboratory, Patrick Lane and Nace "Jerry" Miller (collectively, the "Forensic Defendants"). He brought a failure to train or supervise claim against the City. Williams alleges that the Police Defendants violated his Fourteenth Amendment right to due process by using an impermissibly suggestive photographic lineup procedure prior to his arrest. He further alleges that the Forensic Defendants violated his Fourteenth Amendment right to due process by suppressing exculpatory crime scene evidence. He also brought state law claims for malicious prosecution, spoliation of evidence, intentional infliction of emotional distress, and negligence against the Police and Forensic Defendants. The district court granted summary judgment in favor of the City and the Police Defendants as well as the Forensic Defendants. Thereafter, Williams appealed. Because we agree that the Police Defendants and Forensic Defendants are

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[*] This opinion is not designated for publication. *See* 5TH CIR. R. 47.5.

entitled to qualified immunity and that the district court did not err in granting summary judgment on Williams's state law and *Monell*[1] claims, we AFFIRM the district court's judgment.

I

A. Factual Background

On December 9, 1982, Anne Eaton was raped and stabbed in her Baton Rouge home.[2] During the assault, Eaton was face-to-face with the assailant and noticed a scar on his right arm. Stephanie Alexander arrived at Eaton's home during the incident, walked upstairs, and saw the assailant and Eaton. After the assailant grabbed Alexander and told her to lie down on the floor, he fled the scene.

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[1] *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978).

[2] This appeal involves a review of cross-motions for summary judgment under Federal Rule of Civil Procedure 56. "The court reviews district court judgment rendered on cross-motions for summary judgment d e novo. 'On cross-motions for summary judgment, we review each party's motion independently, viewing the evidence and inferences in the light most favorable to the nonmoving party.'" *Century Sur. Co. v. Colgate Operating, L.L.C.*, 116 F.4th 345, 348–49 (5th Cir. 2024) (quoting *Discover Prop. & Cas. Ins. Co. v. Blue Bell Creameries USA, Inc.*, 73 F.4th 322, 327 (5th Cir. 2023) (citation omitted)). Because the district court granted the Forensic Defendants' motion for summary judgment, "this [c]ourt takes [Williams's] evidence as true and construes all facts and justifiable inferences in the light most favorable to [Williams]." *Id.* (citing *Discover Prop. & Cas. Ins. Co.*, 73 F.4th at 327). Therefore, the facts presented herein are as alleged by Williams.

The Police Defendants investigated Eaton's assault. To identify the assailant, detectives Mondrick and Groht showed Eaton photographic lineups on five separate occasions. On December 15, 1982, Mondrick and Groht interviewed Eaton and showed her the first photographic lineup, which was based on Alexander's description of the suspect. Mondrick and Groht presented Eaton with forty-eight photographs of Black males with similar appearances, excluding a photograph of Williams. Eaton did not identify her assailant during this lineup. On December 16, 1982, Mondrick and Groht showed Eaton six photographs, excluding a photograph of Williams, and Eaton also failed to make a positive identification.

On January 3, 1983, Groht showed Eaton thirty additional photographs, excluding a photograph of Williams, and Eaton again failed to identify the suspect. Later that day, a confidential informant advised Woodring that Williams had committed the crime. Given this information, detectives later showed Eaton six photographs, including one of Williams. During this lineup, Eaton looked at the photograph of Williams, which looked "very, very close to her attacker." Eaton "felt pretty sure that this was the man," but "said she could not be positive." Upon Eaton's request, the detectives then showed Eaton a side view of the lineup, including a photograph of Williams. Eaton similarly pinpointed the photograph of Williams, stating that it "looked the most like the [B]lack man who raped her" even though "she could not positively say."

On January 4, 1983, the Police Defendants

presented another six-photograph lineup, including a newer photograph of Williams. Eaton "immediately pointed" to the photograph of Williams and "became very excited." The detectives also "immediately heard the victim scream in a loud voice that the subject in position #1," the position of Williams's photograph in the lineup, "was the [B]lack male [who] raped her." The detectives arrested Williams later that day. Before Williams's trial, Eaton identified Williams in a physical lineup. During the trial, Eaton also identified Williams as her assailant. When Williams stood before the jury and lifted his shirt as instructed by the prosecution, Eaton testified that the scar on Williams's right arm was the same scar that she saw on the day of the assault.

After the incident, the Forensic Defendants also assisted in the investigation. Lane lifted eight latent or invisible fingerprints from the crime scene and took photographs of the bedroom and bloody smears on the door. Sibyl Guidry, a latent print examiner at the Louisiana State Bureau of Identification, received fingerprints from Lane. Guidry identified no fingerprints as Williams's fingerprints. Miller assessed blood samples and Eaton's rape kit. Miller's Scientific Analysis Report indicated that the seminal fluid in Eaton's rape kit "could have originated from Archie Williams."

On April 21, 1983, a jury convicted Williams of aggravated burglary, aggravated rape, and attempted murder. After roughly thirty-six years in prison, Williams was exonerated based on fingerprint evidence that implicated another person as Eaton's assailant.

B. Procedural History

On March 17, 2020, Williams filed suit asserting 42 U.S.C. § 1983 claims against the City and the Police Defendants.[3] He alleged that the Police Defendants violated his Fourteenth Amendment right to due process by using an impermissibly suggestive photographic identification procedure and failing to disclose exculpatory crime scene evidence. He also asserted state law claims for malicious prosecution, spoliation of evidence, intentional infliction of emotional distress, and negligence against the Police Defendants. He further alleged § 1983 claims against the City for an unconstitutional policy, custom, or practice of failing to train or supervise. He also asserted claims against the Baton Rouge Police Department and Louisiana State Police Crime Lab Supervisors for supervisory liability.

Williams asserted § 1983 claims against the Forensic Defendants. He alleged that Lane and Guidry violated his Fourteenth Amendment right to due process by failing to disclose exculpatory crime scene evidence, fabricating crime scene evidence, and conducting a reckless investigation. He alleged that Miller violated his Fourteenth Amendment right to due process by fabricating and failing to disclose serological evidence.[4] Finally, he asserted state law

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[3] On May 12, 2020, Williams filed an amended complaint.

[4] Serology is "the study of blood serum." *Serology*, *Oxford English Dictionary* (2d ed. 1989).

claims for malicious prosecution, spoliation of evidence, intentional infliction of emotional distress, and negligence.

Williams filed an opposed motion for summary judgment against Lane, and the Forensic Defendants filed an opposed cross-motion for summary judgment. The district court granted the Forensic Defendants' motion for summary judgment, reasoning that they were entitled to qualified immunity. Williams timely appealed.

The City and the Police Defendants filed an opposed motion for summary judgment. The district court granted their motion for summary judgment on Williams's fabrication of evidence through impermissibly suggestive identification procedures and failure to disclose exculpatory evidence claims, reasoning that the Police Defendants were entitled to qualified immunity. Moreover, the district court granted summary judgment against Williams on his failure to train and supervisory liability claims because it found that there was no underlying constitutional violation. Finally, the district court granted summary judgment against Williams on his state law claims, citing the lack of evidentiary support and constitutional violation. Williams timely appealed.

II

This court has jurisdiction under 28 U.S.C. § 1291 because the district court entered final judgments. It granted summary judgment in favor of the Forensic Defendants on June 10, 2024 as well as in

favor of the City and the Police Defendants on October 18, 2024.

We review a district court's ruling on a motion for summary judgment de novo. *Sanders v. Christwood*, 970 F.3d 558, 561 (5th Cir. 2020). This court also reviews a district court's ruling on a motion for summary judgment based on qualified immunity de novo. *Griggs v. Brewer*, 841 F.3d 308, 311 (5th Cir. 2016). "Summary judgment is proper when there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." *Id.* at 311–12 (citing FED. R. Civ. P. 56(a)). "A fact is 'material' if its resolution in favor of one party might affect the outcome of the lawsuit under governing law." *Hamilton v. Segue Software Inc.*, 232 F.3d 473, 477 (5th Cir. 2000) (citing *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986)). "An issue is 'genuine' if the evidence is sufficient for a reasonable jury to return a verdict for the nonmoving party." *Id.* "A party cannot defeat summary judgment with 'conclusory allegations,' 'unsubstantiated assertions,' or 'only a scintilla of evid enc e." *Lamb v. Ashford Place Apartments L.L.C.*, 914 F.3d 940, 946 (5th Cir. 2019) (quoting *Little v. Liquid Air Corp.*, 37 F.3d 1069, 1075 (5th Cir. 1994) (en banc)).

III

On appeal, Williams raises four arguments.[5]

[5] As an initial matter, we note that Williams does not raise the following issues on appeal: the Police Defendants' failure to

First, he argues that the district court erred by holding that the Police Defendants were entitled to qualified immunity. Second, he asserts that the district court erred in granting the Police Defendants' motion for summary judgment on Williams's state law claims. Third, he contends that the district court erred in granting the City's motion for summary judgment on Williams's *Monell* claim. And fourth, he maintains that the district court erred by holding that the Forensic Defendants were entitled to qualified immunity. We address each of these arguments in turn.

A. Police Defendants' Assertion of Qualified Immunity

Qualified immunity "shields public officials sued in their individual capacities 'from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.'" *Joseph ex rel. Estate of Joseph v. Bartlett*, 981 F.3d 319, 328 (5th Cir. 2020) (quoting *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982)). "When a public official makes 'a good-faith assertion of qualified immunity,' that 'alters the usual summary-judgment burden of proof, shifting it to the plaintiff to show that the defense is not

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disclose exculpatory crime scene evidence, the City's supervisory liability, Guidry's assertion of qualified immunity, and state law claims against the Forensic Defendants. Accordingly, these issues are forfeited on appeal. *See Rollins v. Home Depot USA*, 8 F.4th 393, 397 (5th Cir. 2021) ("A party forfeits an argument . . . by failing to adequately brief the argument on appeal.").

available.'" *Id.* at 329–30 (quoting *Orr v. Copeland*, 844 F.3d 484, 490 (5th Cir. 2016)). "A court's decision on qualified immunity involves two questions: (1) whether the defendant violated the plaintiff's constitutional or statutory rights; and (2) whether those rights were clearly established at the time of the violation 'such that the officer was on notice of the unlawfulness of his or her conduct.'" *Roque v. Harvel*, 993 F.3d 325, 331 (5th Cir. 2021) (quoting *Cole v. Carson*, 935 F.3d 444, 451 (5th Cir. 2019)).

A right is clearly established if "the contours of the right" are "sufficiently clear that a reasonable official would understand that what h e is doing violates that right." *Anderson v. Creighton*, 483 U.S. 635, 635 (1987). "The defendant's acts are held to be objectively reasonable unless *all* reasonable officials in the defendant's circumstances would have then known that the defendant's conduct violated the United States Constitution or the federal statute as alleged by the plaintiff." *Thompson v. Upshur Cnty.*, 245 F.3d 447, 457 (5th Cir. 2001) (emphasis in original) (citing *Anderson*, 483 U.S. at 641). To determine that a right is clearly established, courts "must be able to point to controlling authority—or a robust consensus of persuasive authority—that defines the contours of the right in question with a high degree of particularity." *Morgan v. Swanson*, 659 F.3d 359, 371–72 (5th Cir. 2011) (internal quotation marks omitted).

In the context of photographic lineups, the Court has observed that "[i]t is the likelihood of misidentification which violates a defendant's right to due process." *Neil v. Biggers*, 409 U.S. 188, 198 (1972).

While the Court has acknowledged that "improper employment of photographs by police may sometimes cause witnesses to err in identifying criminals," it has been "unwilling to prohibit its employment, either in the exercise of [its] supervisory power or, still less, as a matter of constitutional requirement." *Simmons v. United States*, 390 U.S. 377, 383–84 (1968). The Court has explained that "each case must be considered on its own facts, and that convictions based on eyewitness identification at trial following a pretrial identification by photograph will be set aside on that ground only if the photographic identification procedure was so impermissibly suggestive as to give rise to a very substantial likelihood of irreparable misidentification." *Id.* at 384. Even if an identification process is impermissibly suggestive, courts must determine "whether under the 'totality of the circumstances' the identification was reliable." *Neil*, 409 U.S. at 199. Courts consider the following factors in assessing the likelihood of misidentification or reliability: (1) "the opportunity of the witness to view the criminal at the time of the crime"; (2) "the witness' degree of attention"; (3) "the accuracy of the witness' prior description of the criminal"; (4) "the level of certainty demonstrated by the witness at the confrontation"; and (5) "the length of time between the crime and the confrontation." *Id.* at 199–200.

Williams argues that the Police Defendants are not entitled to qualified immunity. He notes that "[a]s early as 1968, our High Court has recognized that constitutional deprivations may occur when a victim is presented multiple photographic lineups depicting the same person." He also asserts that there are genuine

issues of material fact regarding whether the Police Defendants' successive identification procedure carried a substantial risk of misidentification because many facts show that the Police Defendants' conduct was unreasonable. Moreover, Williams cites his expert's report, which "strongly condemns the [Police] Defendants' repeated use of [Williams's] photographs in successive lineups."

The Police Defendants respond that they are entitled to qualified immunity because "[n]othing in the investigative process for the photograph or in-person lineups was suggestive or otherwise gave rise to an obvious or apparent violation of [Williams's] civil rights." They interpret *Simmons* as supporting their qualified immunity defense, arguing that Williams "ignores the materiality and value of the criminal trial cross examinations of the victim and the investigation officer (Groht)." They also argue that Williams "calls no attention to the shoulder scar description given by the victim and the confirmation of that scar upon [Williams's] shoulder as demonstrated in open court to the criminal trial jury." Applying the factors outlined in *Neil*, 409 U.S. at 198, the Police Defendants argue that their identification process was reliable and non-suggestive. Addressing Williams's claim that there are genuine issues of material fact, they contend that his expert's report was "speculative" and "in direct contradiction to the evidence, the victim's criminal trial testimony."

The district court correctly held that the Police Defendants were entitled to qualified immunity. We agree that Williams does not provide sufficient support

to establish that the Police Defendants' photographic identification procedure was so impermissibly suggestive and unreliable as to violate his due process rights.

Williams first cites *Simmons* for its discussion of the risks of misidentification associated with photographic lineups, but the Court generally condones the practice. 390 U.S. at 384 ("Despite the hazards of initial identification by photograph, this procedure has been used widely and effectively in criminal law enforcement, from the standpoint both of apprehending offenders and of sparing innocent suspects the ignominy of arrest by allowing eyewitnesses to exonerate them through scrutiny of photographs."). The Court has also noted that "[t]he danger that [photographic identification] may result in convictions based on misidentification may be substantially lessened by a course of cross-examination at trial which exposes to the jury the method's potential for error." *Id.* Here, Eaton and the Police Defendants were subject to cross-examination, potentially lessening the risk of a conviction based on misidentification.

Williams also fails to establish that the Police Defendants' conduct violated his due process rights. He does not provide concrete evidence that suggests that the identification procedure was impermissible. And even if Williams had sufficient evidence to prove that the procedure was unduly suggestive, he has not proven that the procedure was unreliable. Under *Neil*, 409 U.S. at 198, the Police Defendants' procedure was likely reliable enough to afford Williams due process.

First, Eaton had the opportunity to view the assailant at the time of the crime because she was face-to-face with him multiple times during the assault like the victim in *Neil*. *See* 409 U.S. at 200– 01. Second, Eaton paid attention to the assailant because she "decided that if [she] lived through it [she] was going to know who that person was, and [she] was going to be able to draw a good composite." Third, Eaton's prior description of the criminal was somewhat accurate because she was able to recall the scar that he had during trial. Fourth, Eaton exhibited a level of certainty at the confrontation when she was shown a photograph of Williams on January 4, 1983, as well as during a physical lineup and at trial even though she had not previously made a positive identification. Fifth, Eaton identified Williams less than one month after the incident, which was a shorter length of time than the seven months that had elapsed between the crime and confrontation in *Neil*. *See* 409 U.S. at 201. Given the totality of the circumstances, the Police Defendants' procedure was likely reliable enough to afford Williams due process.

Williams's claim also fails because there is no genuine issue of material fact. Williams argues that "there are a multitude of specific facts demonstrating that the actions of the [Police] Defendants were objectively unreasonable, and carried a substantial risk of misidentification." However, "[a]n issue is 'genuine' if the evidence is sufficient for a reasonable jury to return a verdict for the nonmoving party." *Hamilton*, 232 F.3d at 477 (citing *Anderson*, 477 U.S. at 248). "A party cannot defeat summary judgment with 'conclusory allegations,' 'unsubstantiated

assertions,' or 'only a scintilla of evidence.'" *Lamb*, 914 F.3d at 946 (quoting *Liquid Air Corp.*, 37 F.3d at 1075). Here, even if the facts Williams lists are material, the evidence is insufficient for a reasonable jury to return a verdict for him because he provides no argument as to why these facts create a genuine issue of material fact. While Williams cites his expert's report as support, it includes unsubstantiated assertions such as a statement that the detectives could have given "verbal or non-verbal cues" to Eaton "to help break the 'tie' between Williams" and another person in the photographic lineup.

In sum, Williams failed to prove that the Police Defendants' photographic identification procedure violated his constitutional or statutory rights under the first prong of the qualified immunity test. Even if the Police Defendants were not entitled to qualified immunity, Williams's claim still fails because there is no genuine issue of material fact due to insufficient support. For these reasons, the district court did not err by holding that the Police Defendants were entitled to qualified immunity.

B. Williams's State Law Claims Against the Police Defendants

The district court did not err in granting the Police Defendants' motion for summary judgment on Williams's state law claims. "A party forfeits an argument . . . by failing to adequately brief the argument on appeal." *Rollins v. Home Depot USA*, 8 F.4th 393, 397 (5th Cir. 2021). As an initial matter, Williams has forfeited this issue because he did not

adequately brief it on appeal. He provides no support for his argument that the Police Defendants are not entitled to summary judgment on his state law claims.

But even if he has not forfeited his state law claims, the district court had discretion to dismiss them. "A district court's decision whether to exercise [supplemental] jurisdiction after dismissing every claim over which it had original jurisdiction is purely discretionary." *Carlsbad Tech., Inc. v. HIF Bio, Inc.*, 556 U.S. 635, 639 (2009) (citing 28 U.S.C. § 1367). "Ordinarily, when the federal claims are dismissed before trial, the pendent state claims should be dismissed as well." *Wong v. Stripling*, 881 F.2d 200, 204 (5th Cir. 1989) (citing *United Mine Workers v. Gibbs*, 383 U.S. 715, 726 (1966)). We review the decision to retain jurisdiction over state claims for abuse of discretion. *Parker & Parsley Petrol. Co. v. Dresser Indus.*, 972 F.2d 580, 585 (5th Cir. 1992). Williams argues that the district court erred because there are genuine issues of material fact as to the reasonableness of the Police Defendants' conduct, which underlies his federal claims. We disagree. The district court dismissed Williams's state law claims because he failed to provide evidence in support of his claims. The district court also found no constitutional violation under § 1983. For this reason, the district court did not abuse its discretion in deciding to exercise supplemental jurisdiction over Williams's state law claims after it dismissed his federal claims. *See Wong*, 881 F.2d at 204.

C. Williams's Monell *Claim Against the City*

A city may be held liable under § 1983 if the plaintiff proves three elements: "a policymak er; an official policy; and a violation of constitutional rights whose 'moving force' is the policy or custom." *Piotrowski v. City of Houston*, 237 F.3d 567, 578 (5th Cir. 2001) (quoting *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 694 (1978)). "In limited circumstances, a local government's decision not to train certain employees about their legal duty to avoid violating citizens' rights may rise to the level of an official government policy for purposes of § 1983." *Connick v. Thompson*, 563 U.S. 51, 61 (2011). "To satisfy the statute, a municipality's failure to train its employees in a relevant respect must amount to 'deliberate indifference to the rights of persons with whom the [untrained employees] come into contact.'" *Id.* (quoting *City of Canton v. Harris*, 489 U.S. 378, 388 (1989)). Deliberate indifference requires "proof that a municipal actor disregarded a known or obvious consequence of his action." *Id.* (quoting *Bd. of Cnty. Comm'rs v. Brown* , 520 U.S. 397, 410 (1997)).

Williams argues that the district court erred in granting the City's motion for summary judgment because there are genuine issues of material fact on the issue of whether the City is liable under *Monell*. He contends that "the lead detectives did not have a training protocol that informed them of, or warned them against, the potential for due process violations attendant to presenting multiple photographic lineups featuring the same person to victims."

The City responds that there is no genuine issue of material fact because Williams "offers no factual

information to support or suggest that the [City], through its police department, had a written or unwritten policy, practice, or pattern of investigative means and methods as specifically alleged against the officers herein attributable to [Williams's] arrest." The City also argues that "there was no national standard in policing on how an officer was to conduct a photograph line-up."

The district court did not err in granting summary judgment on Williams's *Monell* claim against the City. Williams failed to establish that the City violated Williams's constitutional rights. Additionally, he failed to prove that the City's lack of a training protocol constituted deliberate indifference. He provides neither evidence that the City violated his constitutional rights nor evidence that the City consciously disregarded the known risk of due process violations from improper photographic lineups. Thus, the district court did not err in granting the City's motion for summary judgment on Williams's *Monell* claim.

D. Forensic Defendants' Assertion of Qualified Immunity

"[S]uppression by the prosecution of evidence favorable to an accused upon request violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Brady v. Maryland*, 373 U.S. 83, 87 (1963). To establish a *Brady* violation, a party must prove: "(1) the prosecutor *suppressed* evidence, (2) *favorable* to the defense, (3) and *material* to guilt or

punishment." *Miller v. Dretke*, 431 F.3d 241, 245 (5th Cir. 2005) (emphasis in original) (citing *Brady*, 373 U.S. at 87). "To have been suppressed, the evidence must not have been discoverable through the defendant's due diligence." *United States v. Brown*, 650 F.3d 581, 588 (5th Cir. 2011). "Evidence is *material* if there is 'a *reasonable probability* that, had the evidence been disclosed to the defense, the result of the proceeding would have been different.'" *Miller*, 431 F.3d at 245 (emphasis in original) (quoting *United States v. Bagley*, 473 U.S. 667, 682 (1985)).

Williams argues that former forensic scientist Lane is not entitled to qualified immunity because concealing exculpatory evidence has been a "clearly established" constitutional violation since 1967. Williams cites *Geter v. Fortenberry*, 849 F.2d 1550 (5th Cir. 1988), arguing that the law is clearly established that a crime scene investigator's suppression of exculpatory evidence sustains a claim under § 1983. He further asserts that the photograph of a bloody fingerprint that Lane took at Eaton's home ("Photograph 10-5") was material evidence concealed from Williams's defense team.

Williams also contends that former forensic scientist Miller is not entitled to qualified immunity because his report was "misleading and scientifically inaccurate." He argues that Miller "conspicuously failed to report that, in addition to [Williams], over 90% of the population similarly 'could not b e excluded' as a donor of the seminal fluids extracted from [Eaton's] rape kit." He further contends that Miller failed to conduct any form of enzyme testing, which

Williams asserts was widely used in the early 1980s and could have excluded Williams as a donor of the semen collected from Eaton's rape kit.

The Forensic Defendants respond that they are entitled to qualified immunity because Williams did not establish that they violated clearly established law. They note that *Brady* did not apply to forensic scientists in 1983. Even if *Brady* applied, the Forensic Defendants argue that Williams has not proven a *Brady* violation.

The district court did not err by holding that Lane was entitled to qualified immunity. First, Williams failed to prove that Lane's conduct violated a clearly established precedent at the time of the violation. Williams's due process right under *Brady* was not clearly established at the time of violation. As of 2001, the Court explained that "neither police officers nor lab technicians have a *Brady* duty to disclose exculpatory information." *Mowbray v. Cameron Cnty.*, 274 F.3d 269, 278 (5th Cir. 2001). Therefore, Lane would not have been on notice that his conduct may have violated the Constitution because *Brady* had not been extended to lab technicians and forensic scientists in the 1980s. Even if *Brady* had been extended to lab technicians and forensic scientists in the context of the deliberate concealment of evidence, Williams cites no evidence that Lane acted in bad faith. *See Mowbray*, 274 F.3d at 278 n.5. According to Lane's affidavit, "he possessed no desire or intent to hide or suppress any evidence on any crime scene visited during his career," including the crime scene at Eaton's home on December 9, 1982.

Thus, Williams failed to establish a violation of a "clearly established" right under the first prong of the qualified immunity test.

Even if *Brady* applied to Lane, Williams failed to show that Lane's conduct constituted a *Brady* violation. To establish a *Brady* claim, a party must prove: "(1) the prosecutor *suppressed* evidence, (2) *favorable* to the defense, (3) and *material* to guilt or punishment." *Miller*, 431 F.3d at 245 (emphasis in original) (citing *Brady*, 373 U.S. at 87). Here, there is no evidence that Lane suppressed Photograph 10-5. This photograph was available to the defense and could have been discovered by the defense despite Williams's claims. For example, during the pre-trial hearing on the defense's supplemental motion for discovery held on March 11, 1983, the prosecution stated that it was willing to provide photographs of the crime scene to the defense. Because Williams failed to establish that Lane suppressed Photograph 10-5, Williams failed to prove a *Brady* violation.

Additionally, Photograph 10-5 was not material to Williams's guilt or innocence. According to Dr. Glenn Langenburg, the defense's fingerprint expert, "Photograph 10-5 would not have assisted the defense of [Williams's] trial in any respect because the meaningful information in that photograph was better included on Exhibit S-12 (more particularly L6b) and because the right portion of the photograph contains no additional discriminating ridge detail." Additionally, at Williams's trial, the prosecutor told the jury that "you will be presented with evidence that several fingerprints were taken from the scene, none

of which match the defendant. As a matter of fact there are two fingerprints taken from the scene that don't match anybody that we made." Similarly, Williams's defense attorney instructed the jury to "[p]ay close attention [to] those fingerprints—none of those fingerprints are [] [Williams's], none. Some have not been identified." Because Photograph 10-5 was immaterial, Williams did not establish that Lane violated his rights under *Brady*. Thus, the district court correctly held that Lane was entitled to qualified immunity.

The district court also did not err by holding that Miller was entitled to qualified immunity. As discussed above, *Brady* did not apply to lab technicians and forensic scientists at the time of the alleged violation, so Williams failed to prove that Miller's conduct violated a clearly established precedent. Like Williams's claim regarding Lane, Williams presents no evidence that Miller acted in bad faith such that *Brady* would extend to his conduct.

Even if *Brady* applied to Miller, Williams also has failed to establish that Miller's conduct violated his constitutional or statutory rights. First, Williams has not established that Miller's failure to reference demographic statistics is a *Brady* violation. " *Brady* does not require the prosecution 'to conduct a defendant's investigation or to assist in the presentation of the defense's case.'" *United States v. Aubin*, 87 F.3d 141, 148 (5th Cir. 1996) (quoting *United States v. Marrero*, 904 F.2d 251, 261 (5th Cir. 1990)). Moreover, " *Brady* does not obligate the State to furnish a defendant with exculpatory evidence that

is fully available to the defendant through the exercise of reasonable diligence." *Kutzner v. Cockrell*, 303 F.3d 333, 336 (5th Cir. 2002) (citing *Rector v. Johnson*, 120 F.3d 551, 558 (5th Cir. 1997)). Here, Miller's report indicated that the seminal fluid in Eaton's rape kit "could have originated from Archie Williams." That Miller did not also report that "over 90% of the population similarly 'could not b e excluded' as a donor" does not rise to the level of a *Brady* violation, especially since the defense could have discovered this information through due diligence. The defense could have asked Miller about demographic statistics at trial. Miller's report is consistent with his trial testimony where he admits that there was "no way" he could "say absolutely" that Williams was the assailant. Therefore, Williams has not proven that Miller's failure to reference additional statistics violated his due process rights.

Moreover, Williams has not shown that Miller's failure to conduct an enzyme test violates *Brady*. Under *Brady*, "the prosecution has an **'affirmative duty** . . . to produce at the appropriate time requested evidence which is materially favorable to the accused either as direct or impeaching evidence.'" *United States v. Beaver*, 524 F.2d 963, 966 (5th Cir. 1975) (quoting *Williams v. Dutton*, 400 F.2d 797, 800 (5th Cir. 1968)). However, "*Brady* clearly does not impose an affirmative duty upon the government to take action to discover information which it does not possess." *Id.* Here, there is no indication in the record that Williams requested an enzyme test from Miller, and Miller did not have an affirmative duty to perform one. Thus, Williams has not demonstrated that Miller's failure to

conduct an enzyme test violated his due process rights.

In sum, Williams failed to establish a violation of his constitutional or statutory rights and, in turn, failed to rebut the Forensic Defendants' qualified immunity defense. Thus, the district court did not err by holding that the Forensic Defendants were entitled to qualified immunity.

IV

For the foregoing reasons, we AFFIRM the district court's judgment.

APPENDIX B

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FOR THE FIFTH CIRCUIT

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Defendant—Appellees.

Appeal from the United States District Court
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USDC No. 3:20-CV-162

JUDGMENT

Before JONES, STEWART, and RAMIREZ, *Circuit Judges*.

This cause was considered on the record on appeal and was argued by counsel.

IT IS ORDERED and ADJUDGED that the judgment of the District Court is AFFIRMED.

IT IS FURTHER ORDERED that Appellant pay to Appellees the costs on appeal to be taxed by the Clerk of this Court.

The judgment or mandate of this court shall issue 7 days after the time to file a petition for rehearing expires, or 7 days after entry of an order denying a timely petition for panel rehearing, petition for rehearing en banc, or motion for stay of mandate, whichever is later. See FED. R. APP. P. 41(B). The court may shorten or extend the time by order. See 5TH CIR. R. 41 I.O.P.

APPENDIX C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

ARCHIE WILLIAMS

VERSUS

CITY OF BATON ROUGE, ET AL.

CIVIL ACTION

NO. 20-00162-BAJ-SDJ

FINAL JUDGMENT

For written reasons assigned,

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiffs claims against Defendants City of Baton Rouge/Parish of East Baton Rouge, Alfred Charles Mondrick, Marjorie Groht, and Steve Woodring be and are hereby DISMISSED WITH PREJUDICE. The Clerk of Court shall terminate this matter.

Baton Rouge, Louisiana, this 17th day of October, 2024

/s/
BRIAN A. JACKSON, JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

APPENDIX D

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

ARCHIE WILLIAMS

VERSUS

CITY OF BATON ROUGE, ET AL.

CIVIL ACTION

NO. 20-00162-BAJ-SDJ

RULING AND ORDER

Plaintiff in this civil rights case was wrongly convicted for rape in 1985 and spent thirty-five years in prison. On March 17, 2020, he filed suit against numerous individuals for their alleged role in his conviction. (Doc. 1). These included Defendants Marjorie Groht, Alfred Charles Mondrick, and Steven Woodring, police officers involved in Plaintiffs arrest and conviction, and the City of Baton Rouge/Parish of East Baton Rouge (City/Parish), *(hereinafter,* the "Police Defendants"); and Defendants Sybil Guidry, a fingerprint examiner for the Louisiana Bureau of Identification, Patrick Lane, a forensic scientist with the Louisiana State Police Crime Lab, and Nace Jerry Miller, a serologist with the Louisiana State Police Crime Lab

(hereinafter, the "Forensic Defendants"). The Court granted summary
judgment to the Forensic Defendants in June 2024. is the Police Defendants' **Motion for Summary Judgment (Doc. 115, the "Motion"),** in which these Defendants assert the defense of qualified immunity. The Motion is opposed. (Doc. 130). For the reasons that follow, the Motion will be granted.

I. BACKGROUND

a. Summary Judgment Evidence

The facts set forth below are drawn from the Court's prior Ruling and Order (Doc. 132) on the Forensic Defendants' summary judgment motion, the parties' competing statements of material fact, (Docs. 115-3, 130-1), and the competent summary judgment evidence submitted in support of these pleadings.

On December 9, 1982, a white woman was raped and stabbed multiple times in her Baton Rouge residence which she shared with her husband and two children. (Doc. 64-2 ¶ 1). The assailant, a black man who acted alone, forcibly entered the house, and took the woman to a second-story recognized him "immediately" as someone who had come to her back door around a month earlier saying he was lost. (Doc. 67-1 at 6). She was face-to-face with him multiple times during the incident. *(Id.* at 15, 16, 20). During the assault, the woman noticed a

three-inch-long scar on the attacker's right arm. *(Id.* at 17).

While the sexual assault was in progress, the woman's minor daughter arrived at the house, accompanied by Stephanie Alexander, an adult, and minor daughter. *(Id.* ¶ 3). After Ms. Alexander entered the house, she went to the bedroom and found the armed assailant and the woman, whose hands were visibly bloody. *(Id.* ¶ 6). In the bedroom, Ms. Alexander covered her eyes and "kept saying I can't see you ... I don't know who you are ... I can't identify you ... [j]ust get out of here." (Doc. 67-1 at 19-20). The assailant ordered Ms. Alexander to lie down, after which he fled and was not seen again. *(Id.* ,r 7). The whole attack lasted between ten and fifteen minutes. *(Id.* ,r 5).

Following the assault, the victim was treated at Baton (Doc. 99 at 19). Separately, Ms. Alexander worked with officers to create a composite sketch of the assailant. (Doc. 67-1 at 25). Based on this description, an initial photo lineup victim on December 15, six days after the assault. *(Id.* at 25 26). This lineup consisted of 48 pictures arranged in groups of six, and did not contain any photo of Plaintiff. (Doc. 130 at 5). The victim did not recognize the person who attacked her in any of those photos. *(Id.).*

The next day, Groht and Mondrick presented the victim a single photo lineup of six images, none of whom was Plaintiff. (Doc. 115-5 at 132). The

victim made no positive identification from this line up but did say that two of the photos depicted individuals who looked similar to the person who attacked her. *(Id.)*.

On January 3, 1983, the victim was shown five more lineups of six photos, none of which included Plaintiff and none of which she recognized. *(Id.* at 137-138). Later the same day, an informant named Plaintiff as the attacker. *(Id.* at 138). The police returned to show the victim a six-photo lineup that included a photo of Plaintiff in position four. *(Id.)*. "The victim viewed the ... lineup for approximately ten (10) seconds[,] and then she put her finger on photo #4[,] and she began to tremble." *(Id.)*. The victim used a paper to cover the hair of the person in photo four and the person in photo two, and then dismissed photo two as displaying an individual who was "too big" and whose face "was too fat." *(Id.)*. Photo four, she said, "looked very, very close to her attacker," and she "felt pretty sure that this was the man." *(Id.)*. She was not, however, positive of her identification, and asked for a side view lineup. *(Id.)*

When presented with the side view lineup that same day, the victim said that the image of Plaintiff, now in position two, "looked the most like" her attacker, "but she could not positively say." *(Id.)*.

The next day, detectives obtained a more recent photo of Plaintiff. *(Id.* at 140). They noticed "a striking resemblance" between the composite sketch,

"which was prepared from information furnished by the victim," and the "picture of [Plaintiff]." *(Id.).* The detectives created a lineup using the recent photo of Plaintiff in position number one. *(Id.* at 141). This time, the victim "immediately pointed to" the photo of Plaintiff, and "became very excited." *(Id.).* "Detectives noted that the victim's hands were trembling[,] and her lips were quivering[,] and that she turned pale." *(Id.).* She screamed "in a loud voice that the subject in position #1 was the subject that raped her." *(Id.).* Later, the victim testified that when she saw the photo of Plaintiff in the final lineup, she "jumped out of the chair screaming this is the one." (Doc. 67-1 at 25- 26). She also testified that after seeing the photo, "[i]t was the best feeling in the world to know that there wasn't any doubt left in [her] mind." (Doc. 67-1 at 25-26). She did not "hesitate in any fashion" when identifying the man. *(Id.* at 31).

In all, the victim was shown photographic lineups on five separate occasions on December 15 and 16, twice on January 3, and a final time on January 4. (Doc. 130- 1 ¶ 3). Plaintiff Archie Williams appeared in three photo arrays.

Two days after the final photo lineup, the woman went to a physical lineup where she "saw [Plaintiff] instantly." (Doc. 67-1 at 33). She later identified Plaintiff in open court at his trial, (id.), where she described a distinctive scar on the right arm of the man who raped her. *(Id.* at 35). Following the in-court identification, Plaintiff stood before the

jury to reveal just such a scar on his right arm. (Id.). Plaintiff was convicted on April 21, 1983, and sentenced to 30 years for aggravated burglary, 50 years for attempted murder, and life in prison for aggravated rape. (Doc. 64-1 at 3).

Tragically, the victim was completely mistaken in her identification. For 36 years, Plaintiff maintained his innocence. No physical evidence had connected him to the crime. *(See* Docs. 99 at 14; 96-1 at 3). Finally, in 2019, Plaintiff was released from prison when latent fingerprint evidence from the crime scene was examined using a fingerprint database created in 2014, and a different man was identified as the attacker. (Doc. 70-3 at 4).

b. Procedural History

On March 17, 2020, Plaintiff filed this lawsuit against the Police and Forensic Defendants for their alleged misconduct in the investigation and prosecution of the criminal case for which he was convicted. Against the Police Defendants, Plaintiff alleged Fourteenth Amendment violations under 42 U.S.C. § 1983 for fabrication of evidence through the use of impermissibly suggestive identification procedures, failure to disclose exculpatory evidence, unconstitutional policy, custom, or practice of failing to train or supervise, supervisor liability. (Doc. 10). Plaintiff also alleged state law claims for malicious prosecution, spoliation of evidence, intentional infliction of emotional distress, negligence, and

vicarious liability, all arising from the same facts underlying the § 1983 claims. (Id.).

The Police Defendants move for summary judgment on all claims, asserting the defense of qualified immunity. (Doc. 115). Plaintiff opposes the Motion but only responds to the claim for impermissibly suggestive identification procedures. (Doc. 130).

II. LAW AND ANALYSIS

a. Standard

The summary judgment standard is well-set: to prevail, Defendants must show that there is no genuine dispute as to any material fact and that they are entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). In making this assessment, the Court must view all evidence and make all reasonable inferences in the light most favorable to Plaintiff-the non-moving party. *Owens v. Circassia Pharms.,* Inc., 33 F.4th 814, 824 (5th Cir. 2022). Even so, under the Federal and Local Civil Rules, Plaintiff must counter with evidence to support his avoid summary judgment by presenting speculation, improbable inferences, or unsubstantiated assertions." *Jones v. United States,* 936 F.3d 318, 321 (5th Cir. 2019) (quotation marks omitted); *see also* M.D. La. Local Rule 56. To the point, summary judgment is required if Plaintiff fails to "produce any summary judgment evidence on an essential element

of [his] claim." *Geiserman v. MacDonald,* 893 F.2d 787, 793 (5th Cir. 1990).

b. Discussion

The Police Defendants invoke qualified immunity. The qualified immunity doctrine turns the traditional summary judgment burden on its head, requiring Plaintiff-the *non-moving* party-to "demonstrate the inapplicability of the defense." *Rogers v. Jarrett,* 63 F.4th 971, 975 (5th Cir. 2023) (quotation marks omitted). To meet his burden, Plaintiff must "(l) raise a fact dispute on whether his constitutional rights were violated by the defendants' individual conduct, and (2) show those rights were clearly established at the time of the violation." *Id.* (quotation marks omitted). The Court may address either prong of the analysis first, *Winzer v. Kaufman Cnty.,* 916 F.3d 464, 473 (5th Cir. 2019), and Plaintiffs failure to carry his burden at one prong is fatal, *e.g., Babinshki v. Sosnowsky,* 79 F.4th 515, 522 (5th Cir. 2023). The Court will address the fabrication of evidence claim first, followed by the claim for failure to disclose exculpatory evidence, the claim against the City/Parish for failure to train and supervise, and the state law claims.

i. Fabrication of Evidence Through Impermissibly Suggestive Identification Procedures

Plaintiff alleges that Defendants Groht, Mondrick, and Woodring "engaged in unreasonable, unnecessary, and unduly suggestive identification procedures" which were "intended to communicate and/or suggest to [the victim] that Archie Williams was the actual assailant," in violation of Plaintiffs Fourteenth Amendment right to due process. (Doc. 10 ¶ 64). In particular, Plaintiff argues that the violation occurred when the victim was presented with successive photo lineups depicting Plaintiff. (Doc. 130 at 14). The Police Defendants argue that the identification process did not violate constitutional protections.

"It is the likelihood of misidentification which violates a defendant's right to due process," making an identification procedure that leads to a very substantial likelihood of misidentification the "primary evil to be avoided" when presenting photo lineups. *Neil v. Biggers,* 409 U.S. 188, 198 (1972) (citing *Simmons v. United States,* 390 U.S. 377, 384 (1968)). "Suggestive confrontations are disapproved because they increase the likelihood of misidentification, and unnecessarily suggestive ones are condemned for the further reason that the increased chance of misidentification is gratuitous." *Id.* Yet, even if an identification procedure was unnecessarily and impermissibly suggestive, a constitutional violation is not guaranteed. Rather, the next step is to determine whether, "under the totality of the circumstances[,] the identification was reliable even though the confrontation procedure was suggestive." *Id.* at 199; *see also Manson v.*

Brathwaite, 432 U.S. 98, 114 (1977) ("[R]eliability is the linchpin in determining the admissibility of identification testimony."); *Abdur Raheem, v. Kelly,* 257 F.3d 122, 133 (2d. Cir. 2001) ("In sum, the identification evidence will be admissible if (a) the procedures were not suggestive or (b) the identification has independent reliability." (citations omitted)).

Courts around the country have consistently held, including before Plaintiffs conviction up to the present day, that over-representation of a defendant in photo arrays does not make an identification procedure impermissibly suggestive, let alone give rise to "a very substantial likelihood of irreparable misidentification." *Simmons,* 390 U.S. at 384; *see United States v. Falange,* 426 F.2d 930, 935 (2nd Cir. 1970) (inclusion of three photographs of defendant, taken years apart and at different angles, in an array of sixteen pictures was not a denial of due process); *United States v. Cunningham,* 423 F.2d 1269, 1271-73 (4th Cir. 1970) (affirming admission of testimony concerning photographic identifications as not impermissibly suggestive although seven of fourteen photographs were of appellants, and the only color photographs were of appellants and a codefendant); *Williams v. Lavigne,* 209 F. App'x. 506, 510 (6th Cir. 2006) ("Clearly established federal law does not mandate a finding of undue suggestiveness merely because a witness viewed multiple photo arrays and lineups before ultimately identifying the defendant."); *United States v. Harris,* 281 F.3d 667, 670 (7th Cir. 2002) ("[T]here is nothing per se

impermissible about placing the same subject in two different identification procedures."); *United States v. Martinez,* No. CA 11-16, 2012 WL 3059728, at *7 (D. Del. July 25, 2012) (quoting *United States v. Eatherton,* 519 F.2d 603, 608 (1st Cir. 1975)) (finding that law enforcement using two photo arrays was not impermissibly suggestive, as "the agents did not specify which photo to select, and the resulting identification was an 'independent decision made without difficulty.'"); *United States v. Diaz,* 248 F.3d 1065, 1103 (11th Cir. 2001) (affirming district court's finding that identification procedures were not unnecessarily suggestive where witnesses were shown different photo arrays on two different occasions weeks apart and presented a separate photo array six months later with a different picture); *English v. Cody,* 241 F.3d 1279, 1283 (10th Cir. 2001) (use of a petitioner's photo in a second lineup after a witness chose the wrong picture in an initial lineup is not unnecessarily suggestive). *see also Ragunauth v. Ercole,* 07 CV 1692, 2008 WL 5401586, at *9 (E.D.N.Y. Dec. 23, 2008) (finding "the witness viewing petitioner two times in a photo array did not taint the subsequent lineup"); *Langston v. Sherman,* No. 117CV01108, 2018 WL 3436964, at *30 (E.D. Cal. July 13, 2018) ("[T]he law does not deem impermissible suggestiveness to arise whenever police or prosecutors expose a witness to a defendant or his or her picture on multiple occasions."); *cf Diggs v. Spitzer,* No. 06-CV-584S, 2007 WL 3036862, at *8 (W.D.N.Y. Oct. 16, 2007) (using two photos of a defendant in the same array is not unnecessarily suggestive); *Flynn v. Pennsylvania*

Dep't of Corrections, No. 91-7888, 1992 WL 50110, at *3-4 (E.D. Pa. Mar. 2, 1992) (same).

In *Simmons,* the Supreme Court upheld the use of a six-photo lineup in which the defendant appeared in multiple photos. *Simmons,* 390 U.S. at 385. That case was decided in 1968, 15 years before the investigation and trial of Plaintiff, which means that *Simmons* was established law when the victim here was shown multiple lineups featuring Plaintiff. *Id.* Police officers are entitled to qualified immunity if there is no constitutional violation, or if the conduct did not violate law clearly established at the time. *Cole v. Carson,* 935 F.3d 444, 451 (5th Cir. 2019), *as revised* (Aug. 21, 2019). Because the law was clearly established at the time of the investigation into Plaintiff that the appearance of a suspect in multiple photo arrays on its own does not violate due process, the Court finds that the lineup procedures used here did not violate Plaintiffs due process rights. Importantly, there is no evidence to indicate that the victim here was told anything about the progress of the investigation, or that the police officers in any other way suggested which person in the pictures was under suspicion. In other words, there is no indication that the identification procedure used here was unnecessarily or impermissibly suggestive. Defendants Groht, Mondrick, and Woodring are accordingly entitled to qualified immunity and Plaintiffs claims against them will be dismissed.

ii. Failure to Disclose Exculpatory Evidence

Next, the Police Defendants move for summary judgment on Plaintiffs Count Five, which alleges a Fourteenth Amendment due process violation against Groht and Mondrick for an alleged failure to disclose exculpatory evidence. (Doc. 115-2 at 8-9). In his Amended Complaint, Plaintiff alleges that Groht and Mondrick failed to disclose to prosecuting attorneys a statement from the victim "that her attacker did not ejaculate" when he raped her. (Doc. 10 ¶ 10). Plaintiff further alleges that this statement was purposefully withheld to inculpate Plaintiff. As mentioned above, however, Plaintiff fails to contest Defendant's Motion as to this claim.

When summary judgment is unopposed, "[t]he movant has the burden of establishing the absence of a genuine issue of material fact and, unless he has done so, the court may not grant the motion, regardless of whether any response was filed." *Hetzel v. Bethlehem Steel Corp.,* 50 F.3d 360, 362 (5th Cir. 1995) (citing *Hibernia Nat'l Bank v. Administracion Cent. Sociedad Anonima,* 776 F.2d 1277, 1279 (5th Cir. 1985)). In this District, however, the failure to file an opposition requires the Court to deem the moving party's statements of uncontested material facts admitted. *See* M.D. La. LR 56(f).

In *Brady v. Maryland,* 373 U.S. 83 (1963), the Supreme Court held that "suppression by the prosecution of evidence favorable to an accused ...

violates due process where the evidence is material either to guilt or to punishment, irrespective of the good faith or bad faith of the prosecution." *Id.* at 87. The prosecutor's duty to provide favorable evidence includes impeachment evidence and exculpatory evidence. *United States v. Bagley,* 473 U.S. 667, 676 (1985). To prevail on a *Brady* claim, a defendant or plaintiff must show that (1) the prosecutor suppressed evidence; (2) the evidence is favorable to the defense; and (3) the evidence is material to guilt or punishment. *Miller v. Dretke,* 431 F.3d 241, 245 (5th Cir. 2005) (citing *Brady,* 373 U.S. at 87).

Notably, here, Plaintiff argues that *police officers* involved in the criminal investigation of Plaintiff committed a *Brady* violation, not the prosecutors who tried Plaintiffs criminal case. (Doc. 10 at 24-25). *Brady,* however, generally does not extend to police officers. *Mowbray v. Cameron County, Tex,* 274 F.3d 269, 278 (5th Cir. 2001). Instead, the Fifth Circuit has held that although neither police officers or lab technicians have a *Brady* duty to disclose exculpatory evidence to criminal defendants, allegations that such parties "elicited false evidence and deliberately concealed exculpatory evidence from all parties, including the prosecution," will support § 1983 liability. *Mowbray v. Cameron County, Tex.,* 274 F.3d 269, 278 n.5 (5th Cir. 2001). But Plaintiff has pointed to no evidence that Groht or Mondrick "deliberately concealed" the evidence in question. *See id.* Nor has Plaintiff offered any argument in support of this claim.

For these reasons, the Court finds that no constitutional violation occurred and Groht and Mondrick are entitled to qualified immunity.

iii. Failure to Train and Supervisory Liability

The Police Defendants also move for summary judgment on Plaintiffs claims against the City/Parish Defendant for failure to train or supervise. "Municipalities cannot be held liable under [§] 1983 on a *respondeat superior* theory, and a [city or parish] is not liable where an injury is caused solely by one of its employees." *Hannon,* 478 F. Supp. 3d at 573 (citing *Monell v. Dep't of Soc. Servs. of N. Y.,* 436 U.S. 658, 690 (1978)). *Monell* established the standards for a municipal liability claim under§ 1983 by articulating the three elements of such a claim: "(1) an official policy (or custom), of which (2) a policy maker can be charged with actual or constructive knowledge, and (3) a constitutional violation whose 'moving force' is that policy (or custom)." *Pineda v. City of Houston,* 291 F.3d 325, 328 (5th Cir. 2002) (discussing *Monell).* "As is well established, every *Monell* claim requires 'an underlying constitutional violation.'" *Hicks-Fields v. Harris Cnty., Texas,* 860 F.3d 803, 808 (5th Cir. 2017). As explained above, the Court has found that no underlying constitutional violation occurred here. For this reason, Plaintiffs failure to train or supervise claim fails.

A "supervisory official may be held liable under section 1983 for the wrongful acts of a subordinate when [the supervisory official] breaches a duty imposed by state or local law, and this breach causes plaintiffs constitutional injury." *Tuttle v. Sepolio,* 68 F.4th 969, 975 (5th Cir. 2023) (quotations omitted). Again, however, the Court has found that no underlying constitutional violation occurred. For this reason, Plaintiffs supervisory liability claim fails as well.

iv. State Law Claims

Finally, Defendants move for summary judgment on Plaintiffs state law claims for malicious prosecution, spoliation of evidence, intentional infliction of emotional distress, negligence, and vicarious liability, arguing that "Plaintiff cannot establish a basis of support for each essential 13). Plaintiff has failed to point to any evidence whatsoever in support of his state law claims. Moreover, the Court has found that no constitutional violation occurred with respect to any of Plaintiffs§ 1983 claims. Plaintiffs state law claims, which are based on the same conduct that underlies Plaintiffs § 1983 claims, will therefore be dismissed with prejudice.

III. CONCLUSION

Regrettably, although a flawed prosecution and a mistaken eyewitness sent Plaintiff to prison for decades, and the State of Louisiana has definitively

stated in its joint filing seeking to vacate Plaintiffs sentence that Plaintiff is factually innocent of his crimes, (see Doc. 70-3), the law does not provide a remedy for Plaintiffs claims here.

Accordingly,

IT IS ORDERED that Defendants City of Baton Rouge/Parish of East Baton Rouge, Alfred Charles Mondrick, Marjorie Groht, and Steve Woodring's **Motion for Summary Judgment (Doc. 15)** be and is hereby **GRANTED,** and Plaintiffs claims against these Defendants be and are hereby **DISMISSED WITH PREJUDICE.**

Judgment will issue separately.

Baton Rouge, Louisiana, this 17th day of October, 2024

/s/
BRIAN A. JACKSON, JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

APPENDIX E

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

ARCHIE WILLIAMS

VERSUS

CITY OF BATON ROUGE, ET AL.

CIVIL ACTION

NO. 20-00162-BAJ-SDJ

JUDGMENT

For written reasons assigned,

IT IS ORDERED, ADJUDGED, AND DECREED that Plaintiffs claims against Defendants Nace Jerry Miller, Sybil Guidry, and Patrick Lane be and are hereby **DISMISSED WITH PREJUDICE.**

Baton Rouge, Louisiana, this 10th day of June, 2024

/s/
BRIAN A. JACKSON, JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

APPENDIX F

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

ARCHIE WILLIAMS

VERSUS

CITY OF BATON ROUGE, ET AL.

CIVIL ACTION

NO. 20-00162-BAJ-SDJ

RULING AND ORDER

Plaintiff in this civil rights case was wrongly convicted for rape in 1985 and spent thirty-five years in prison. On March 17, 2020, he filed suit against numerous individuals for their alleged role in his conviction. (Doc. 1). These included Defendants Marjorie Groht, Alfred Charles Mondrick, and Steven Woodring, police officers involved in Plaintiffs arrest and conviction, and the City of Baton Rouge; and Defendants Sybil Guidry, a fingerprint examiner for the Louisiana Bureau of Identification, Patrick Lane, a forensic scientist with the Louisiana State Police Crime Lab, and Nace Jerry Miller, a serologist with the Louisiana State Police Crime Lab *(hereinafter,* the "Forensic Defendants"). Now before the Court is Plaintiffs

Motion for Summary Judgment (Doc. 64) against Defendant Patrick Lane, and the Forensic Defendants' **Motion for Summary Judgment (Doc. 96).** In both, the Defendants assert the defense of qualified immunity. Both Motions are opposed. (Docs. 99, 118). For the reasons that follow, Plaintiffs Motion will be denied, and the Forensic Defendants' Motion will be granted.

I. BACKGROUND

a. Summary Judgment Evidence

The facts set forth below are drawn from the parties' competing statements of material fact and the competent summary judgment evidence submitted in support of these pleadings.

On December 9, 1982, a white woman was raped and stabbed multiple times in her Baton Rouge residence which she shared with her husband and two children. (Doc. 64-2 ¶ 1). The assailant, a black man who acted alone, forcibly entered the house and took the woman to a second-story bedroom. *(Id.* ¶ 2). The woman recognized him "immediately" as someone who had come to her back door around a month earlier saying he was lost. (Doc. 67-1 at 6). She was face-to-face with him multiple times during the incident. *(Id.* at 15, 16, 20). During the assault, the woman noticed a three inch- long scar on the attacker's right arm. *(Id.* at 17).

While the sexual assault was in progress, the woman's minor daughter arrived at the house, accompanied by Stephanie Alexander, an adult, and Ms. Alexander's minor daughter. *(Id.* ¶ 3). After Ms. Alexander entered the house, she went to the bedroom and found the armed assailant and the woman, whose hands were visibly bloody. *(Id.* ¶ 6). In the bedroom, Ms. Stephanie was thrown against the wall, covered her eyes, and "kept saying I can't see you ... I don't know who you are ... I can't identify you ... [j]ust get out of here." (Doc. 67-1 at 19-20). The assailant ordered Ms. Alexander to lie down, after which he fled and was not seen again. *(Id.* ¶ 7). The whole attack lasted between ten and fifteen minutes. *(Id.* ¶ 5).

Following the assault, the victim was treated at Baton Rouge General Hospital, where a rape kit was prepared following a gynecological examination. (Doc. 99 at 19). At the hospital, police officers arrived and worked with the victim to create a picture of the assailant. (Doc. 67-1 at 23). Separately, Ms. Alexander worked with officers to create a composite sketch of the assailant. *(Id.* at 25).

While still in the hospital, officers began bringing photo lineups for the victim to look at. *(Id.* at 25). Officers continued bringing lineups to the victim when she was released from the hospital. *(Id.* at 26). In one of those lineups, the victim identified an individual who she thought "strongly resembled the man" who had attacked her, but the man in the photo had different hair. *(Id.).* The police brought a

different photo, this time in profile, but the hair of the man in the photo was not right. *(Id.* at 28). Finally, officers brought her a lineup and she "jumped out of the chair screaming this is the one." *(Id.).* Testifying at trial, the woman related that after seeing the photo, "[i]t was the best feeling in the world to know that there wasn't any doubt left in [her] mind." *(Id.).* She did not "hesitate in any fashion" when identifying the man. *(Id.* At 31). Two days later, the woman went to a physical lineup where she "saw him instantly." *(Id.* at 33). The man she identified was Plaintiff Archie Williams, and she identified him in open court at his trial. *(Id.).* Following her open-court identification, Plaintiff stood before the jury to reveal a scar on his right arm. *(Id.* at 35). The victim identified the scar as the one she saw on the arm of the man who raped her. *(Id.).*

Defendant Patrick Lane, a forensic scientist with the Louisiana State Police Crime Lab responded to the house following the assault, where he lifted fingerprints and took photographs of the scene. *(Id.* ¶ 11). Defendant Sibyl Guidry, Lane's coworker, assessed the fingerprint evidence from the scene of the crime. (Doc. 96-2 ¶ 8). No fingerprint evidence connected Plaintiff to the crime. (See Doc. 70-1 ¶ 44.

Defendant Nace Jerry Miller examined the victim's rape kit, determined that it contained seminal fluid, and performed blood-type testing in an attempt to identify the attacker. (Doc. 99 at 19).

Miller s testing was inconclusive, and he was only able to determine that around 90% of the male population could have produced the sperm. (Doc. 96-36 at 41). Shortly before Plaintiffs trial, Miller prepared a report, writing that "results indicate that the seminal fluid in the vaginal washing and on the swab could have originated from Archie Williams." (Doc. 73-32).

Plaintiff was convicted on April 21, 1983, and sentenced to 30 years for aggravated burglary, 50 years for attempted murder, and life in prison for aggravated rape. (Doc. 64-1 at 3). No physical evidence connected him to the crimes. (See Doc. 99 at 14; Doc. 96-1 at 3). For 36 years, Plaintiff maintained his innocence. In 2019, he was released from prison when latent fingerprint evidence recovered at the crime scene was examined using a fingerprint database created in 2014 and a different individual was identified as the attacker. (Doc. 70-3 at 4).

b. Procedural History

On March 17, 2020, Plaintiff filed this lawsuit against the City of Baton Rouge and numerous officials for their alleged misconduct in the investigation and prosecution of the criminal case for which he was convicted. Specifically relevant here, Plaintiff alleged Fourteenth Amendment violations under 42 U.S.C. § 1983 against Defendants Lane and Guidry for failure to disclose exculpatory crime scene evidence, fabrication of crime scene evidence,

and conducting a reckless investigation; and against Defendant Miller for fabrication of serological evidence, failure to disclose exculpatory serological evidence; as well as state law claims for malicious prosecution, spoliation of evidence, intentional infliction of emotional distress, and negligence against all Defendants. (Doc. 10).

Now, Plaintiff moves for summary judgment on his claims against Defendant Lane, (Doc. 64), and the Forensic Defendants move for summary judgment on Plaintiff's claims, asserting qualified immunity, (Doc. 96). Both Motions are opposed, in part: Plaintiff failed to respond to Defendant Guidry's assertion of qualified immunity. (Docs. 99, 118).

II. LAW AND ANALYSIS

a. Standard

The summary judgment standard is well-set: to prevail, Defendants must show that there is no genuine dispute as to any material fact and that they are entitled to judgment as a matter of law. Fed. R. Civ. P. 56(a). In making this assessment, the Court must view all evidence and make all reasonable inferences in the light most favorable to Plaintiff—the non-moving party. *Owens v. Circassia Pharms., Inc.*, 33 F.4th 814, 824 (5th Cir. 2022). Even so, under the Federal and Local Civil Rules, Plaintiff must counter with evidence to support his claims: "A non-movant will not avoid summary

judgment by presenting speculation, improbable inferences, or unsubstantiated assertions." *Jones v. United States*, 936 F.3d 318, 321 (5th Cir. 2019) (quotation marks omitted); see also M.D. La. Local Rule 56. To the point, summary judgment is required if Plaintiff fails to produce any summary judgment evidence on an essential element of [his] claim." *Geiserman v. MacDonald*, 893 F.2d 787, 793 (5th Cir. 1990).

c. Discussion

The Forensic Defendants invoke qualified immunity. The qualified immunity doctrine turns the traditional summary judgment burden on its head, requiring Plaintiff—the non-moving party —to "demonstrate the inapplicability of the defense." *Rogers v. Jarrett*, 63 F.4th 971, 975 (5th Cir. 2023) (quotation marks omitted). To meet his burden, Plaintiff must "(I) raise a fact dispute on whether his constitutional rights were violated by the defendants' individual conduct, and (2) show those rights were clearly established at the time of the violation." *Id.* (quotation marks omitted). The Court may address either prong of the analysis first, *Winser v. Kaufman Cnty.*, 916 F.3d 464, 473 (5th Cir. 2019), and Plaintiffs failure to carry his burden at one prong is fatal, e.g., *Babinski v. Sosnowsky*, 79 F.4th 515, 522 (5th Cir. 2023). The Court will address the arguments of each Defendant in turn.

i. **Defendant Lane's claim of qualified immunity**

Plaintiff alleges that Lane suppressed a crime scene photograph of a bloody palm print in violation of Plaintiffs Fourteenth Amendment right to due process. (Doc. 10 at 21). In *Brady v. Maryland*, 373 U.S. 83 (1963) the Supreme Court held that "suppression by the prosecution of evidence favorable to an accused . . . violates due process where the evidence is material either to guilt or to punishment irrespective of the good faith or bad faith of the prosecution." *Id*. at 87. The prosecutor's duty to provide favorable evidence includes impeachment evidence and exculpatory evidence. *United States v. Bagley*, 473 U.S. 667, 676 (1985). The prosecutor's duty to disclose evidence includes both evidence in its own possession and any other favorable evidence known to the others acting on the government's behalf in the case." *Kyles v. Whitley*, 514 U.S. 419, 437 (1995). "[T]he duty to disclose such evidence is applicable even though there has been no request by the accused." *Strickler v. Greene*, 527 U.S. 263, 280 (1999) (citing *United States v. Agurs*, 427 U.S. 97, 107 (1976)).

To prevail on a *Brady* claim, Petitioner must show: (1) the prosecutor suppressed evidence; (2) the evidence is favorable to the defense; and (3) the evidence is material to guilt or punishment. *Miller v. Dretke*, 431 F. 3d 241, 245 (5th Cir. 2005) (citing Brady, 373 U.S. at 87). "[E]vidence is material only if there is a reasonable probability that, had the evidence been disclosed to the defense, the result of the proceeding would have been different. A reasonable probability' is a probability sufficient to

undermine confidence in the outcome." Bagley, 473 U.S. at 682. The materiality analysis "is not a sufficiency of evidence test." *Kyles*, 514 U.S. at 434. ""The question is not whether the defendant would more likely than not have received a different verdict with the evidence, or whether, after discounting the inculpatory evidence in light of the undisclosed evidence, there would not have been enough left to convict.'" *Mahler v. Kaylo*, 537 F.3d 494, 500 (5th Cir. 2008) (quoting *Kyles*, 514 U.S. at 43-4—35). To succeed on a *Brady* claim, a defendant must "show[] that the favorable evidence could reasonably be taken to put the whole case in such a different light as to undermine confidence in the verdict. *Kyles,* 514 U.S. at 435. "A *Brady* violation is more likely to occur when the impeaching evidence 'would seriously undermine the testimony of a key witness on an essential issue or there is no strong corroboration.'" *LaCaze v. Warden La. Corr. Inst. for Women*, 645 F. 3d 728, 736 (5th Cir. 2011) (quoting *Rocha v. Thaler,* 619 F.3d 387, 396 (5th Cir. 2010)).

"[A] *Brady* determination is inevitably a contextual inquiry, involving questions of both law and fact." *Sipe*, 388 F.3d at 479. A *Brady* inquiry "is intimately intertwined with the trial proceedings: because the court must judge the effect of the evidence on the jury's verdict, the *Brady* decision can never be divorced from the narrative of the trial. In addition, the court must consider not simply the withheld evidence in isolation, but also the quantity and quality of other evidence in the record." Id. "[W]hen the undisclosed evidence is merely

cumulative of other evidence [in the record], no *Brady* violation occurs." *Id*. at 478 (quoting *Spence v. Johnson*, 80 F. 3d 989, 995 (5th Cir. 1996)). "Similarly, when the testimony of the witness who might have been impeached by the undisclosed evidence is strongly corroborated by additional evidence supporting a guilty verdict, the undisclosed evidence generally is not found to be material." *Id*. (citing *Wilson v. Wlzitley*, 28 F. 3d 433, 439 (5th Cir. 1994)). Conversely, if the impeaching evidence "would seriously undermine the testimony of a key witness on an essential issue or there is no strong corroboration, the withheld evidence has been found to be material." *Id*. (quoting *United States v. Weintranb*, 871 F.2d 1257, 1262 (5th Cir. 1989)).

Here, Plaintiff fails to establish a "reasonable probability" that the result of his 1984 trial would have been different had the allegedly suppressed crime scene photograph been presented at trial. Bagley, 473 U.S. at 682.

The photograph in question, labeled 10-5 by the parties, was one of twenty-six taken by Lane and others at the crime scene on December 9, 1982. (Doc. 99-1 ¶ 11). The image captures bloody smears, measuring around eight centimeters across, on a wall or doorframe. (Doc. 99-8). A fingerprint lifted from the blood at the left side of the smear did not identify Plaintiff, and a black-and-white image of

that fingerprint was presented at trial as Exhibit S-12. (Doc. 67-2 at 17). [1] S-12 was described by Lane as a "bloody print" from the scene of the crime. (*Id.*). As confirmed by both Plaintiffs and Defendants' experts, at the time of trial, no additional print evidence could be extracted from 10-5. (Doc. 96-21 at 93-94; 96-23 ¶ 50).

Plaintiff argues that despite the presentation of S-12 at trial, the description of S-12 as a bloody print by multiple witnesses, (Doc. 67-2 at 17; Doc. 67-12 at 6), and the admission that S-12 was not from Plaintiff, the failure to present 10-5 was material for *Brady* purposes. (See Doc. 64-1 at 17). The Court disagrees.

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[1] In his opposition to Defendants' Motion, Plaintiff disputes whether print S-12 is from the bloody smear depicted by photograph 10-5. (Doc. 99 at 4-9). This argument, which Plaintiff does not put forward whatsoever in his own Motion, is contrary to the findings of the experts retained by both parties, (see Docs. 96-21 at 95; 96-23 ^ 45-51), and Plaintiffs own assertions, (compare Doc. 64-2 ¶ 67 (describing S-12 as "contain[ing] obvious similarities to the ridge patterns" visible on the left side of the bloody smear in 10-5) with Doc. 99 at 6 ("Only a cursory analysis of 10-5 and S-12 is required to observe the obvious dissimilarities between these two items of evidence. . . ."). Contrary to Plaintiffs argument, S-12 does appear to display a print captured in 10-5. (See Doc. 67-9 (displaying the two images side by side)). Moreover, the unsupported statements of counsel are not evidence, and cannot defeat summary judgment. *Wilson v. Ly Invs., L.L.C.*, No. 1:20CV300-HSO-RHWE, 2022 WL 493669, at *3 (S.D. Miss. Feb. 17, 2022) ("Statements by counsel in briefs are not evidence...." (quoting *Skyline Corp. v. N.L.R.B.*, 613 F.2d 1328, 1337 (5th Cir. 1980))).

Plaintiff was convicted at trial even though it was made clear to the jury that no fingerprint evidence, including prints in blood, connected him to the crime. (See Doc. 70-1 ¶ 44). In opening argument, the prosecutor acknowledged that "none" of the fingerprints taken from the scene "match[ed] the defendant" and admitted that "there [were] two fingerprints taken from the scene that [didn't] match anybody...." (Doc. 96-37 at 7-8). Likewise, the defense counsel in his opening asked the jury to "[p]ay close attention [to] those fingerprints because "none of those fingerprints are [Plaintiffs], none. (Doc. 96-37 at 12). At closing argument, defense counsel referred repeatedly to fingerprints in blood that did not belong to Plaintiff. (Doc. 96-19 at 5-6). Plaintiff's conviction appears to have been based entirely on the tragically mistaken testimony of the victim herself. Because the evidence shows that the jury knew that prints in blood from the scene of the crime were not connected to Plaintiff, even if 10-5 had been admitted and was indeed suppressed by Lane, its effect would have been cumulative to evidence already in the record. "[W]hen the undisclosed evidence is merely cumulative of other evidence, no *Brady* violation occurs. *Spence v. Johnson*, 80 F.3d 989, 995 (5th Cir. 1996).

For these reasons, Defendant Lane is entitled to qualified immunity.

ii. Defendant Miller s claim of qualified immunity

Plaintiff also argues that Miller fabricated and failed to disclose exculpatory serological evidence in violation of *Brady*. The evidence does not support this claim.

"A criminal defendant s due process rights are violated when the government obtains a conviction with testimony that government agents know is false." *Brown v. Miller*, 519 F.3d 231, 237 (5th Cir. 2008) (citing *Napue v. Illinois,* 360 U.S. 264, 269, 79 (1959)). "A false or scientifically inaccurate report is equivalent to any other false evidence created by investigators, such as a false police report; ...there is no reason a government scientific expert should enjoy immunity greater than that of other investigators." *Id*. (quotation omitted).

Miller played a minor role in Plaintiffs trial. Based on his testing of physical evidence from the victim's rape kit, Miller produced a report stating that the evidence "could have originated from Archie Williams." (Doc. 73-32). Miller also testified at trial, essentially repeating the same conclusion. (See Doc. 96-10 at 15-16).

Plaintiff argues that Miller's report should have referenced "the fact that approximately 90% of the population could also not be excluded as the source of the seminal fluids extracted from [the victim's] rape kit." (*Id*. at 20). This omission, according to Plaintiff, "was misleading to the point of being scientifically inaccurate" because "approximately 90% of the population" could also

have been potential donors. Plaintiff also argues that Miller s failure to perform enzyme testing of the evidence, which could have excluded Plaintiff, was a further Brady violation. (Doc. 99 at 22—25).

Plaintiff relies heavily on a U.S. Court of Appeals for the Fifth Circuit opinion that affirmed a denial of qualified immunity to Miller at the motion-to-dismiss stage on similar *Brady* claims by a different exonerated plaintiff. (*Id*. at 22—25 (citing *Brown*, 519 F.3d at 237). There are crucial differences, however, between that case and the facts here. There, the plaintiff alleged that Miller "overstated the results of the blood tests he conducted, effectively fabricating evidence by overstating his results and putting forward misleading scientific conclusions. Brown, 519 F. 3d at 237. Miller's report in Brown listed two possible conclusions regarding the blood test but inexplicably left out a third, equally viable, alternative conclusion. *Id*. at 234- 235. Had the third alternative been included, the results of the blood test would have been inconclusive. *Id*. The report was therefore a knowingly false representation. More egregiously, and despite the inconclusive results, Miller allegedly "gave verbal confirmation of a positive match to an investigating officer" after which the officer "swore out an affidavit that Brown had been positively identified by the blood test. *Id*. at 235 (quotations omitted).

Here, in contrast, Miller merely reported that the evidence "could have originated from Archie

Williams"—a true statement. (Doc. 73-32). Record evidence suggests that the practice in place at the time was to leave percentages out of crime lab reports. (Doc. 96-36 at 80). Moreover, Miller testified openly and honestly at trial, agreeing that based on the blood test results, there [was] no way that [he could] say absolutely that" Plaintiff was the assailant. (Doc. 96-10 at 7). In Brown, Miller left out information crucial for understanding his results from both his report and testimony at trial. Under the specific factual circumstances present in this case, however, the Court cannot conclude that Miller failed to disclose or fabricated exculpatory evidence, and therefore Miller is entitled to qualified immunity on this claim.

Plaintiff also claims that Miller could have performed additional testing but did not, again relying heavily on *Brown*. In *Brown*, however, plaintiffs allegations that Miller had [run] additional tests besides those he reported . . ., that the results exculpated Brown, and that Miller [had] concealed, suppressed, or destroyed these results" survived at the motion-to-dismiss-stage, where the allegations were accepted as true. Id. Here, at summary judgment, Plaintiff only alleges that Miller could have performed the tests but did not do so. However, the failure to perform tests does not violate *Brady*. See *Kutzner v. Cockrell*, 303 F.3d 333, 336 (5th Cir. 2002) ("*Brady* does not obligate the State to furnish a defendant with exculpatory evidence that is fully available to the defendant through the exercise of reasonable diligence."); *United States v. Beaver*, 524

F.2d 963, 966 (5th Cir. 1975) ("*Brady* clearly does not impose an affirmative duty upon the government to take action to discover information which it does not possess."). Accordingly, Miller is also entitled to qualified immunity on this claim.

iii. Defendant Guidry's claim of qualified immunity

Plaintiff alleges that Guidry should have performed an exclusion analysis on S-12, the bloody fingerprint, but he failed to contest Guidry's assertion of qualified immunity. A party waives an issue by failing to brief it. See *United States v. Martinez*, 263 F.3d 436, 438 (5th Cir. 2001). Moreover, the Local Civil Rules require that parties support their arguments with a concise statement of reasons . . . and citations of authorities," M..D. La. Local Rule 7(d), and this Court has repeatedly admonished that it will not speculate on arguments that have not been advanced, or attempt to develop arguments on a party's behalf. See *Doe v. Bd. of Supervisors of Univ. of Louisiana Sys.*, 650 F. Supp. 3d 452, 477 n.l3 (M.D. La. 2023) (Jackson, J.) (citing authorities). For this reason, Guidry is entitled to qualified immunity.

III. CONCLUSION

Accordingly,

IT IS ORDERED that Defendants Nace Jerry Miller, Sybil Guidry, and Patrick Lane's

Motion for Summary Judgment (Doc. 96) be and is hereby **GRANTED**, and that all claims against Defendants Miller, Guidry, and Lane be and are hereby **DISMISSED WITH PREJUDICE.**

IT IS FURTHER ORDERED that Plaintiff's **Motion for Summary Judgment (Doc. 64)** be and is hereby DENIED. Judgment will enter separately.

IT IS FURTHER ORDERED that the deadlines set forth in the April 15, 2024 Telephone Status Conference (Doc. 129) be and are hereby **CONTINUED WITHOUT DATE** pending the Court's ruling on the Motion for Summary Judgment (Doc. 115) filed by Defendants City of Baton Rouge, Marjorie Groht, Alfred Charles Mondrick, and Steven. Woodring.

Baton Rouge, Louisiana, this 10th day of June, 2024

/s/
BRIAN A. JACKSON, JUDGE
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA