

**SUPREME COURT OF THE STATE OF NEW YORK**  
***Appellate Division, Fourth Judicial Department***

**928**

**CA 14-00266**

PRESENT: CENTRA, J.P., CARNI, VALENTINO, AND WHALEN, JJ.

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GLENN FREELAND AND SUSAN FREELAND, AS  
ADMINISTRATORS FOR THE ESTATE OF TREVELL WALKER,  
DECEASED, AND AS GUARDIANS OF THE INFANT  
AND SOLE ISSUE JALEN WALKER,  
PLAINTIFFS-APPELLANTS,

V

MEMORANDUM AND ORDER

ERIE COUNTY, MARK POLONCARZ, ERIE COUNTY  
EXECUTIVE, TIMOTHY B. HOWARD, ERIE COUNTY SHERIFF  
AND MARK WIPPERMAN, ERIE COUNTY UNDERSHERIFF,  
DEFENDANTS-RESPONDENTS.

(APPEAL NO. 2.)

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KEVIN T. STOCKER, TONAWANDA, FOR PLAINTIFFS-APPELLANTS.

MICHAEL A. SIRAGUSA, COUNTY ATTORNEY, BUFFALO (ANTHONY B. TARGIA OF  
COUNSEL), FOR DEFENDANTS-RESPONDENTS.

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Appeal from an order of the Supreme Court, Erie County (Diane Y. Devlin, J.), entered January 2, 2014. The order granted defendants' motion to dismiss the complaint and dismissed the complaint.

It is hereby ORDERED that the order so appealed from is unanimously modified on the law by denying defendants' motion in part and reinstating the first cause of action by plaintiffs as administrators of the estate of Trevell Walker, deceased, against defendants Erie County, Timothy B. Howard, Erie County Sheriff, and Mark Wipperman, Erie County Undersheriff, and the third cause of action by plaintiffs as administrators of the estate of Trevell Walker, deceased, against defendants Timothy B. Howard, Erie County Sheriff, and Mark Wipperman, Erie County Undersheriff, and as modified the order is affirmed without costs.

Same Memorandum as in *Freeland v Erie County* ([appeal No. 1] \_\_\_\_ AD3d \_\_\_\_ [Nov. 21, 2014]).

Entered: November 21, 2014

Frances E. Cafarell  
Clerk of the Court