

NOT DESIGNATED FOR PUBLICATION

No. 121,852

IN THE COURT OF APPEALS OF THE STATE OF KANSAS

TYRA WILLIAMS, Individually and as Co-Special Administrator of the Estate of KAREN JACKSON, Deceased, SHANTA DAY, and ERNEST DAY,  
*Appellants,*

v.

CITY OF WICHITA, Kansas, and City of Wichita Police Department Officers ELIZABETH MARTIN and BRYAN KNOWLES,  
*Appellees.*

MEMORANDUM OPINION

Appeal from Sedgwick District Court; ERIC A. COMMER, judge. Original opinion filed April 23, 2021. Opinion on remand filed March 18, 2022. Reversed and remanded.

*Christopher A. McElgunn*, of Klenda Austerman LLC, of Wichita, and *James A. Thompson*, of Malone, Dwire & Thompson, LLC, of Wichita, for appellants.

*Samuel A. Green* and *J. Steven Pigg*, of Fisher, Paterson, Sayler & Smith, L.L.P., of Topeka, for appellees.

Before HILL, P.J., BRUNS and SCHROEDER, JJ.

PER CURIAM: This wrongful death action returns to us on remand from the Kansas Supreme Court based on its recent holding in *Herington v. City of Wichita*, 314 Kan. 447, 500 P.3d 1168 (2021). In *Herington*, 314 Kan. 447, Syl. ¶¶ 4, 7-8, our Supreme Court overruled its previous decisions in *Stanfield v. Osborne Industries, Inc.*, 263 Kan. 388, 949 P.2d 602 (1997), and *Rhoten v. Dickson*, 290 Kan. 92, 223 P.3d 786 (2010).

Because the district court expressly relied on the holdings in *Stanfield* and *Rhoten* in finding that the plaintiffs' claims were barred by res judicata, we reverse its decision granting summary judgment to the defendants. Moreover, because the district court did not address the alternative grounds for summary judgment argued by the defendants and based its decision solely on the res judicata issue, we remand this case to the district court for further proceedings.

Reversed and remanded.