

**STATE OF WEST VIRGINIA
SUPREME COURT OF APPEALS**

**Frank Vetter,
Plaintiff Below, Petitioner**

vs) **No. 11-1353** (Hardy County 10-C-81)

**Town of Moorefield,
Defendant Below, Respondent**

FILED

June 22, 2012
RORY L. PERRY II, CLERK
SUPREME COURT OF APPEALS
OF WEST VIRGINIA

MEMORANDUM DECISION

The petitioner Frank Vetter, by counsel Harley O. Stagers, appeals the order of the Circuit Court of Hardy County filed on September 12, 2011, granting summary judgment in favor of the respondent, the Town of Moorefield. The respondent filed its response by counsel, Kathryn K. Allen. The petitioner filed a reply.

This Court has considered the parties' briefs and the record on appeal. The facts and legal arguments are adequately presented, and the decisional process would not be significantly aided by oral argument. Upon consideration of the standard of review, the briefs, and the record presented, the Court finds no substantial question of law and no prejudicial error. For these reasons, a memorandum decision is appropriate under Rule 21 of the Revised Rules of Appellate Procedure.

The petitioner filed suit against the respondent alleging, inter alia, claims of age discrimination and retaliatory discharge following the termination of his employment as Chief of Police. The respondent argued that it terminated the petitioner for misconduct. The circuit court entered summary judgment in favor of the respondent.

The standard of review of a circuit court's entry of summary judgment is de novo. Syl.Pt. 1, *Painter v. Peavy*, 192 W.Va. 189, 451 S.E.2d 755 (1994). Further, this Court has recognized:

“Summary judgment is appropriate where the record taken as a whole could not lead a rational trier of fact to find for the nonmoving party, such as where the nonmoving party has failed to make a sufficient showing on an essential element of the case that it has the burden to prove.” Syllabus point 4, *Painter v. Peavy*, 192 W.Va. 189, 451 S.E.2d 755 (1994).

Syl. Pt. 2, *Minshall v. Health Care & Retirement Corp. of America*, 208 W.Va. 4, 537 S.E.2d 320 (2000).

The Court has fully reviewed the issues raised by the petitioner. The Court concludes that the circuit court's entry of summary judgment, under the facts and circumstances of this case, was proper. The Court adopts and incorporates by reference the well-reasoned final order granting summary judgment that is attached hereto.

For the foregoing reasons, we affirm.

Affirmed.

ISSUED: June 22, 2012

CONCURRED IN BY:

Chief Justice Menis E. Ketchum
Justice Robin Jean Davis
Justice Brent D. Benjamin
Justice Margaret L. Workman
Justice Thomas E. McHugh