

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

VESTA NOLES

Plaintiff,

v.

CV 4:12-3840-RBP

**CITY OF GUNTERSVILLE,
ALABAMA**

Defendant.

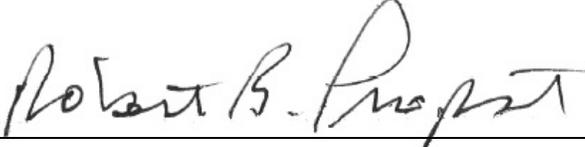
MEMORANDUM OPINION

This cause comes on to be further considered and heard on the Motion to Dismiss filed by the defendant on November 14, 2012 which has been converted to a motion for summary judgment by the court. After also considering the briefs and evidence filed by the parties in response to the court's order dated March 5, 2013, which was entered in response to plaintiff's Motion to Alter, Amend or Vacate Judgment filed on February 19, 2013, the court has determined to reinstate its previously filed memorandum opinion and order filed on January 23, 2013. This decision comes after a further consideration of both the undisputed and arguably disputed evidence and the cases cited in this court's previous memorandum opinion and the cases cited by the parties.

There may be other issues regarding even the appropriateness of the court's consideration of plaintiff's Motion to Alter, Amend or Vacate Judgment and also other issues with reference to the merits of plaintiff's case not discussed by the court. The evidence, in general, is overwhelming. The court notes that Ordinance No. 825, par. 3, specifically states that "No one shall be permitted to sell produce except that which is produced or raised *on his/her farm.*"

(Emphasis added). The plaintiff has acknowledged that he sold produce grown on his brother's property and the property of the Lattas. Further, his brother's land is in *Blount*, not Marshall, County. The Growers Permit is for Marshall County, and says "Buy Local." The court has not attempted to list all violations of the ordinance.¹

This the 24th day of April, 2013.



ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE

¹ As a matter of interest see plaintiff's wife's statement. The plaintiff was notified that the operators of the market were concerned about his place of obtaining produce. He failed to cooperate with them after such notice.

