

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

STUART SHOWALTER,)
vs. Plaintiff,) No. 1:08-cv-01283-SEB-TAB
THE TOWN OF THORNTOWN, et al.,)
Defendants.)

**Entry Discussing Motion for Summary Judgment as to Claims
Against the Town of Thorntown and the Town of Colfax**

A municipality may be held liable for a constitutional deprivation under *Monell v. Dep't of Social Servs.*, 436 U.S. 658 (1978). To establish municipal liability under 42 U.S.C. § 1983, however, a plaintiff must present sufficient evidence to show that the constitutional violation resulted from a municipal policy, custom, or practice. *Monell*, 436 U.S. at 694. A plaintiff may establish municipal liability by showing: (1) an express policy that causes a constitutional deprivation when enforced; (2) a widespread practice that is so permanent and well-settled that it constitutes a custom or practice; or (3) an allegation that the constitutional injury was caused by a person with final policymaking authority. *Waters v. City of Chicago*, 580 F.3d 575 (7th Cir. 2009).

Two of the defendants in this civil rights action are the Town of Thorntown and the Town of Colfax. No allegation of an unconstitutional policy or custom is made with respect to the claims against these municipal defendants, nor does the issuance of a citation or the enforcement of a nuisance ordinance constitute the decision of a person with final policymaking authority. Accordingly, the essential feature of municipal liability is absent, and “[i]f the nonmoving party fails to establish the existence of an element essential to his case, one on which he would bear the burden of proof at trial, summary judgment must be granted to the moving party.” *Ortiz v. John O. Butler Co.*, 94 F.3d 1121, 1124 (7th Cir. 1996), cert. denied, 519 U.S. 1115 (1997).

The motion for summary judgment of the Town of Thorntown and the Town of Colfax is **granted**. No partial final judgment shall issue at this time as to the claims resolved in this Entry.

IT IS SO ORDERED.

Date: 04/23/2010



SARAH EVANS BARKER, JUDGE
United States District Court
Southern District of Indiana

Distribution:

Michael Lynn Parkinson
PARKINSON LAW FIRM
parkinson.ml@verizon.net

Mary A. Russell
HANNA, GERDE & RUSSELL
russell@hgrlaw.com

STUART SHOWALTER
P.O. Box 374
Lebanon, IN 46052