

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

KATHY MILNE and CHRISTOPHER
MILNE,

Case No. 07-6340-HO

Plaintiffs,

ORDER

v.

CITY OF JUNCTION CITY, a
municipal corporation,

Defendant.

Defendant is the City of Junction City, Oregon. Plaintiff Kathy Milne alleges a claim for violation of Section 1983 of Title 42 of the United States Code, based on the alleged deprivation of Fourth Amendment rights stemming from the entry into her home by defendant's police officers. Christopher Milne alleges a state law claim for malicious prosecution. Plaintiffs seek damages, costs and attorney fees. Defendant filed a motion for summary judgment.

The judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue as to any material fact and that the movant is

entitled to judgment as a matter of law.
Fed. R. Civ. P. 56(c).

Discussion

Assuming for argument that police officers violated Kathy Milne's Fourth Amendment rights, there is no evidence they did so pursuant to an official policy or custom of defendant Junction City. Defendant Junction City is immune from liability for damages for prosecuting Christopher Milne. Beason v. Harclerod, 805 P.2d 700, 703 (Or. App. 1991); Or. Rev. Stat. § 30.265(2). Defendant Junction City is entitled to judgment as a matter of law.

Conclusion

Based on the foregoing, defendant Junction City's motion for summary judgment [#11] is granted. This action is dismissed.

SO ORDERED.

DATED this 13th day of January, 2009.

s/ Michael R. Hogan
United States District Judge