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Unconstitutional Dog Ordinance Provides Basis for Claim of Damages Against Detroit

FACTS:

In 2004, Detroit adopted an ordinance tightening the regulation of animals within city limits. In particular, the ordinance empowered law enforcement to enter the homes and yards of pet owners if probable cause existed that the regulations had been violated. In one specific section of the ordinance, law enforcement was permitted to enter “any... real property within the City for the purpose of capturing, collecting, or restraining any animal,” whether they had a warrant or not. § 6-1-2(e).

Law enforcement officers of Detroit Animal Control, an agency of the city, seized 23 dogs as a result of a variety of incidents, including attacks on people, dogs menacing a neighborhood, neglected dogs, and unlicensed dogs. The situations involving the seizures varied: several dogs were seized on public property, several dogs were voluntarily turned over to law enforcement, and several dogs were seized pursuant to a lawful eviction. Several dogs were also seized by law enforcement who entered the owner’s yard when the owner was absent. All of the dog owners sued 1) to enjoin enforcement of § 6-1-2(e) because it authorized warrantless searches and seizures of their property, and 2) for damages for violations, in part, of their Fourth Amendment right to be free from unreasonable searches and seizures.

The federal district court enjoined enforcement of § 6-1-2(e) on the grounds that it was unconstitutional. The city did not appeal that ruling. The district court dismissed, however, the claim for damages on the basis that the dog owners did not show violations of their Fourth Amendment right to be free from unreasonable searches and seizures. The dog owners appealed that ruling.

QUESTION:

With respect to their claim for damages, did the dog owners show that they suffered a constitutional violation and that a municipal policy or custom directly caused the violation?

ANSWER:

The Sixth Circuit answered “yes” as to some dog owners and “no” as to the remainder. The Court reviewed the grounds for prevailing on a § 1983 claim for damages against a local government as established by the United States Supreme Court in *Monell v Dep’t of Social Services*.

In order to prevail, the Court noted that the dog owners must show that they suffered a constitutional violation and that a municipal policy or custom directly caused the violation. The Court held that § 6-1-2(e) of the ordinance satisfied the “policy or custom” requirement of *Monell*. Nonetheless, even though the ordinance section was ruled unconstitutional, in order to establish a claim for damages, each of the dog owners had to establish that the ordinance “directly caused the violation” of his or her constitutional rights. The Court held that only as to those dog owners’ claims for which law enforcement illegally entered onto their property and seized their dogs was a claim for damages established. The claims of the dog owners whose dogs were seized on public property or were voluntarily turned over to law enforcement were dismissed.

Hardrick v City of Detroit, Nos. 16-2704/17-2077 (November 22, 2017)

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- B. CRIMINAL DEFENSE
- C. BANKRUPTCY
- D. NONE OF THE ABOVE

ANSWER:

D. NONE OF THE ABOVE



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