

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 vs.)
)
 TOWN OF COLORADO CITY, ARIZONA;)
 et al.,)
)
 Defendants.)
 _____)

No. 3:12-cv-8123-HRH
(Prescott Division)

ORDER

Municipal Liability Instruction

The parties disagree as to how the court should instruct the jury with respect to municipal liability based upon 42 U.S.C. § 14141. The court included defendants’ proposed Instruction No. 15¹ in its initial, proposed jury instructions.² The court called for and has received briefing from the parties with respect to the foregoing.

Defendants would have the court import Section 1983 concepts – having to do with vicarious liability of municipalities for the bad conduct of individual police officers – into the enforcement of Section 14141. Defendants’ contention is based largely upon a report and recommendation which was never approved by the district court in United States v. City of Columbus, Ohio, 2000 WL 1133166 (S.D. Ohio Aug. 3, 2000) . The focal points of Section 1983 law and Section 14141 are quite different. Section 1983 law,

¹Docket No. 797 at 22.

²Docket No. 872-1 at 37-38.

based principally upon Monell v. Dept. of Soc. Servs., 436 U.S. 658 (1978), protects municipalities from general vicarious liability for the acts of police officers. Under Section 14141, municipalities are simply not exposed to the isolated bad acts of municipal employees, for the statute creates municipal liability only where a municipality has been shown to have engaged in a pattern or practice of conduct violating the United States Constitution.

For the reasons and upon the authorities discussed by the United States in its brief,³ the court concludes that defendants' proposed Instruction No. 15⁴ should not be given.

DATED at Phoenix, Arizona, this 12th day of February, 2016.

/s/ H. Russel Holland
United States District Judge

³Docket No. 880.

⁴Docket No. 797 at 22.