

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ERNESTINE TAYLOR,
Plaintiff,

v.

COUNTY OF BERKS, et al.,
Defendants.

:
:
:
:
:
:
:
:

CIVIL ACTION

No. 03-0002

MEMORANDUM AND ORDER

Schiller, J.

December 12, 2003

Plaintiff Ernestine Taylor brings this suit under 42 U.S.C. § 1983 alleging constitutional violations in connection with the warrantless entry into her home of several law enforcement officers. Presently before the Court is Defendant County of Berks's Motion for Summary Judgment. For the reasons set out below, the Court denies this Motion.

I. BACKGROUND

The Court sets out the following facts in the light most favorable to Plaintiff. On May 6, 2000, Plaintiff was on the second floor of her home at 319 Moss Street, Reading, Pennsylvania, when she observed several law enforcement officers running towards her home through her backyard. (Taylor Dep. at 49-50.) Despite Plaintiff's protests that the officers were at the wrong house, they demanded that Plaintiff open the door. (*Id.* at 51-52.) Before she could get downstairs, however, the officers hit the door repeatedly, splintering it. (*Id.* at 59-60.) The officers then held Plaintiff at gunpoint while they searched her home (*Id.* at 60-69) until they were informed via radio communication that they were at the wrong house.¹ As it turned out, the intended target of the raid

¹ Both parties cite to page 70 of Plaintiff's deposition for this factual proposition but omit this page of the deposition transcript from their respective exhibits. Accordingly, the Court will

was 317 Moss Street, where the officers who entered Plaintiff's home were supposed to be covering the rear exit. (Delp Aff. ¶ 5; Beisswanger Aff. ¶ 5.) At this point, the officers departed.

Plaintiff's original Complaint asserted claims against various governmental units and police agencies, as well as unnamed state, county, and local law enforcement agents. However, due to several successful motions to dismiss and the failure of Plaintiff's original lawyer to effect service of process on other defendants, the County of Berks is the only remaining defendant in this case.

II. SUMMARY JUDGMENT STANDARD

Summary judgment is appropriate when the admissible evidence fails to demonstrate a dispute of material fact and the moving party is entitled to judgment as a matter of law. FED. R. CIV. P. 56(c) (1994); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986). When the moving party does not bear the burden of persuasion at trial, that party may obtain summary judgment by showing that the nonmoving party's evidence is insufficient to carry its burden of persuasion at trial. *Celotex Corp. v. Catrett*, 477 U.S. 317, 323-24 (1986). The nonmoving party may demonstrate the existence of a genuine dispute of material fact by providing sufficient evidence to allow a reasonable jury to find in his favor at trial. *Anderson*, 477 U.S. at 248. In reviewing the record, "a court must view the facts in the light most favorable to the nonmoving party and draw all inferences in that party's favor." *Armbruster v. Unisys Corp.*, 32 F.3d 768, 777 (3d Cir. 1994). Furthermore, a court may not make credibility determinations or weigh the evidence in making its determination. *See Reeves v. Sanderson Plumbing Prods.*, 530 U.S. 133, 150 (2000); *see also Goodman v. Pa. Tpk. Comm'n*, 293 F.3d 655, 665 (3d Cir. 2002).

consider this fact undisputed for the purposes of the instant motion.

III. DISCUSSION

Plaintiff's claim against the County of Berks is based upon *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978). In *Monell*, the Supreme Court held that a constitutional violation may give rise to municipal liability under § 1983 when the violation occurs as a result of the municipality's custom, policy or practice. *Id.* at 691. The Supreme Court and the Third Circuit have subsequently held that liability may also attach to a municipality's failure to train its officers to avoid "simple mistake[s that] can . . . obviously lead to a constitutional violation." *Berg v. County of Allegheny*, 219 F.3d 261, 276-77 (3d Cir. 2000) (reversing grant of summary judgment where municipal defendant failed to train police to identify erroneous arrest warrants); *see also City of Canton v. Harris*, 489 U.S. 378, 288 (1989); *Beck v. City of Pittsburgh*, 89 F.3d 966, 971-72 (3d Cir. 1996) (*citing City of Canton*). Such a failure to train is actionable when it constitutes "deliberate indifference" on the part of the municipality to an "obvious risk" that its untrained officers will commit constitutional violations. *See City of Canton*, 489 U.S. at 288 (permitting failure-to-train suits "only where the failure to train amounts to deliberate indifference to the rights of persons with whom the police come into contact"); *Berg*, 219 F.3d at 276.

Defendant argues that Plaintiff has produced no evidence to support the existence of a municipal custom or practice of knocking down the doors of incorrect houses. Defendant neglects, however, to address Plaintiff's failure-to-train claim. Regarding this claim, Defendant is not entitled to judgment as a matter of law because Defendant's own evidentiary submissions support Plaintiff's argument that Defendant did not train its officers to avoid the type of violation that occurred in this case, despite the obvious risk of such a violation occurring. Specifically, Defendant's policy for executing raids makes absolutely no mention of a requirement that, or a procedure by which, officers

verify that they are at the correct location before doing damage to a home. (*See* Def.'s Mot. for Summ. J. Ex F.) Given that Berks County officers perform raids in the backyards of rowhouses where there are no house numbers and where it is easy to mistake one home for another (Taylor Dep. at 114), a reasonable jury could conclude that Defendant's failure to train its officers to verify their location constitutes deliberate indifference as to whether the officers violate citizens' rights by entering their homes illegally. *See Berg*, 219 F.3d at 276 (holding that failure to train police to identify erroneously issued arrest warrants could constitute deliberate indifference). Thus, because a reasonable jury could find in Plaintiff's favor under the failure-to-train theory of municipal liability, Defendant is not entitled to judgment as a matter of law.

For the foregoing reasons, the Court denies Defendant's Motion for Summary Judgment. An appropriate Order follows.

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**ERNESTINE TAYLOR,
Plaintiff,**

v.

**COUNTY OF BERKS, et al.,
Defendants.**

:
:
:
:
:
:
:
:
:

CIVIL ACTION

No. 03-0002

ORDER

AND NOW, this 12th day of **December, 2003**, upon consideration of Defendant County of Berks's Motion for Summary Judgment and the response thereto, it is hereby **ORDERED** that:

Defendant County of Berks' Motion for Summary Judgment (Document No. 47) is **DENIED**.

BY THE COURT:

Berle M. Schiller, J.