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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

JAMES JENKINS, SHAWN PICKETT, CLEVELAND BROWN, AND ARNOLD THREETS,

Plaintiffs,

v.

CITY OF RICHMOND, a California Governmental Entity,

Defendant.

CASE NO. C 08-03401 MHP

ORDER AFTER HEARING RE: REQUEST TO CONDUCT INVESTIGATIONS INVOLVING PLAINTIFF PICKETT

The Defendant City of Richmond has moved this Court for an order permitting the City to conduct two separate investigations of Plaintiff Lt. Shawn Pickett.

The first investigation relates to emails sent from an individual identified in this order by the initial "S" for privacy reasons. One of the recipients of these emails was a Richmond citizen who complained to the City that she believed Lt. Pickett (and not "S") was the true sender of the emails at issue. The City moved the Court for leave to investigate this issue. The second investigation relates to the Richmond Police Department's concern regarding the manner in which Lt. Pickett responded to his receipt of information in August of 2010 regarding an alleged crime.

The City moved the Court for leave to investigate that incident.

The motion by Richmond came on for hearing in this Court on January 18, 2011. Counsel for all parties appeared and argued. Based upon the evidence and argument submitted, the Court orders as follows:

has appointed Lynell Philips under separate order filed this date.

1. ~~With regard to the complaint regarding~~ the emails, the Court ~~appoints Dr. A.J. Nichols (or other forensic examiner recommended by Dr. Nichols) to review the emails at issue~~ and all other relevant information including metadata allegedly obtained ~~by the~~ recipient(s) of these emails, to determine whether there is forensic evidence demonstrating that Lt. Pickett is the true sender of these emails. In ~~order to make~~ this determination as to whether Lt. Pickett's was the sender of these ~~emails~~, Dr. A.J. Nichols (or other forensic examiner recommended by Dr. Nichols) ~~may inspect, if necessary, the relevant computers or cell phones used by Lt. Pickett.~~

2. Until further order from this Court, Lt. Pickett is not to delete, modify, alter, transfer or make any changes which conceal, destroy, remove or change any data (including images) which currently exists on any and every computer and cell phone used by or owned by Lt. Pickett, including any personal computers (laptop or desktop) and any personal cell phones, including any and all iPhones owned or used. There is no other limitation to Lt. Pickett's use of any computer or cell phone.

3. With respect to the Richmond Police Department concern regarding the manner in which Lt. Pickett responded to his receipt of information in August of 2010 regarding an alleged crime, the Special Master, Ms. Yanni shall select an independent investigator to take statements of all "external" witnesses (ie, non-police department personnel) to the incident. (Alternatively, the parties can agree on the investigator who will be used.) Upon receipt of the audio tapes and statements from those interviews, defendant shall provide copies of the statements and audio tapes to plaintiffs.

4. If after the above actions are completed, Richmond wishes to continue pursuing its request to open investigations against Lt. Pickett, Richmond shall file that request, along with the supporting evidence, with the Court on February 17, 2011. Plaintiffs shall file their opposition on February 24, 2011. The matter will be heard on March 3, 2011 at 3:00 p.m.

5. The costs for these investigations shall be paid by defendant.

IT IS SO ORDERED.

Dated: January 24, 2011

By: _____
Hon. Marilyn H. Patel
UNITED STATES DISTRICT COURT

Approved as to Form

_____
Anne Costin, Esq.
Attorney for Plaintiffs