

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
**Chief Judge Wiley Y. Daniel**

Civil Action No. 07-cv-01522-WYD-MEH

BARBARA GREEN, individually and on behalf of all heirs as the surviving spouse of  
WILLIS C. GREEN, decedent;  
STEPHANIE GREEN, individually; and  
RANDY GREEN, individually,

Plaintiffs,

v.

JONATHAN S. POST and  
PUEBLO COUNTY SHERIFF'S DEPARTMENT,

Defendants.

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**ORDER**

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THIS MATTER is before the Court in connection with the opinion of the United States Court of Appeals for the Tenth Circuit of August 7, 2009. That opinion reversed my Order of March 14, 2008, denying Defendants' motion for summary judgment on three § 1983 claims based on qualified immunity and remanded the case to this Court for further proceedings in accordance with the opinion. Judgment was entered on August 7, 2009. The mandate was issued by the Tenth Circuit on September 1, 2009. Thus, this matter is now before this Court on remand.

Based on my review of the Tenth Circuit's opinion, the record needs to be amended in this Court to reflect the Tenth Circuit's ruling as to portions of Defendants' Motion to Dismiss Fourth, Fifth, Seventh, Eighth, and Ninth Claims for Relief (which was converted to a Motion for Summary Judgment). As to that motion, Plaintiff voluntarily

withdrew the fourth and fifth claims, and those claims have been dismissed and are not at issue. Further, I granted summary judgment on the claims against the County of Pueblo and that is also not at issue. However, as to the § 1983 claims against the remaining Defendants (the seventh, eighth and ninth claims), my Order of March 14, 2008 denying summary judgment was reversed by the Tenth Circuit. Thus, the record shall be amended to reflect that Defendants' motion to dismiss, converted to a motion for summary judgment, is now granted as to the seventh, eighth and ninth claims.

Based on the foregoing, the only remaining claims in this case appear to be the first, second, third, and sixth claims, all of which are state claims. As to those claims, the parties shall provide a status report regarding the claims and what action needs to be taken by the Court. Accordingly, it is

ORDERED that in accord with the Tenth Circuit's opinion, Defendants' Motion for Summary Judgment is now granted as to the seventh, eighth and ninth claims on the grounds of qualified immunity, and those claims are **DISMISSED**. It is

FURTHER ORDERED that as to the remaining claims, the parties shall file a status report by **Tuesday, September 15, 2009**.

Dated: September 4, 2009

BY THE COURT:

s/ Wiley Y. Daniel \_\_\_\_\_  
Wiley Y. Daniel  
Chief United States District Judge