

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Honorable Marcia S. Krieger

Civil Action No. 08-cv-01693-MSK-KLM

MUSE JAMA,
JOSE ERNESTO IBARRA, and
DENNIS MICHAEL SMITH,

Plaintiffs,

ANTONIO CARLOS SANCHEZ,

Plaintiff-Intervenor,

v.

CITY AND COUNTY OF DENVER,
KURT PETERSON, an officer with the Denver Police Department, in his individual capacity,
JOHN BISHOP, an officer with the Denver Police Department, in his individual capacity, and
ALAN SIRHAL, a Denver Sheriff Department deputy, in his individual capacity,

Defendants.

ORDER DENYING WITHOUT PREJUDICE MOTIONS FOR SUMMARY JUDGMENT

THIS MATTER comes before the Court *sua sponte* regarding pending Motions for Summary Judgment filed by Defendant City of Denver (“Denver”). This case currently involves claims by four plaintiffs for constitutional violations related to mistaken identity arrests brought against both the individual police officers who effectuated their arrests and Denver under a *Monell* theory of liability.

The officer defendants have typically filed independent motions for summary judgment addressing only the claims against them. The Court has ruled on one of these motions (#388) and one is fully briefed and ready for determination (#277). Denver currently has four motions

for summary judgment pending (#333, 350, 356, 358). With one exception,¹ each of these motions addresses the *Monell* claim against Denver. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 690–91 (1978) (addressing municipal liability for constitutional deprivations). The Plaintiffs have not yet responded to any of Denver's motions and, after numerous extensions and delays including a recent 30-day extension (#424), the current deadline to respond is set at September 17, 2010.

Denver's motions are potentially interrelated with the individual officers' motions—a ruling on one motion may potentially narrow the issues on another. Accordingly, the Court had anticipated issuing a comprehensive ruling addressing all of the motions for summary judgment before September 30, 2010, but due to the Plaintiffs' most recent extension of time to respond,² this will not be possible. To avoid further delay and because the determination of the motions that are fully briefed³ may affect the need and direction of briefing on those that are not yet fully briefed, **IT IS ORDERED** that

- (1) Denver's Motions for Summary Judgment (#333, 350, 356, 358) are **DENIED WITHOUT PREJUDICE**.
- (2) Defendant Sirhal may refile a Motion for Summary Judgment, addressing only the

¹ Docket No. 356 is a motion for summary judgment filed by Denver in conjunction with Defendant Alan Sirhal.

² On August 16, 2010 the Plaintiffs moved for a thirty-day extension of time to prepare their responses stating, *inter alia*, that counsel who had been working on the substantive issues had recently withdrawn and it would take remaining counsel additional time to familiarize themselves with the issues and prepare a response. The Court granted the motion (#424), extending the deadline to September 17, 2010.

³ These include Defendant Ortega's Motion for Summary Judgment (#188), which the Court granted (#388); Defendants Peterson and Bishop's Motion for Summary Judgment (#277); and potentially Defendant Sirhal's Motion for Summary Judgment, should he refile pursuant to this Order.

claims against him, within 21 days of this Order.

- (3) Defendant Denver may refile a single Motion for Summary Judgment regarding all claims against it within 21 days after the Court has ruled on Defendant Peterson and Bishop's Motion for Summary Judgment (#277) and Defendant Sirhal's Motion for Summary Judgment, should he refile his motion.

Dated this 24th day of August, 2010

BY THE COURT:



Marcia S. Krieger
United States District Judge