

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior District Judge Richard P. Matsch

Civil Action No. 09-cv-02311-RPM

MICHAEL CACIOPPO,

Plaintiff,

v.

TOWN OF VAIL, COLORADO,
DARREN ANDERSON, and
LUKE J. CAUSEY

Defendants.

ORDER DISMISSING TOWN OF VAIL, COLORADO, AND DENYING MOTION TO DISMISS BY
DEFENDANT CAUSEY

Upon consideration of the Defendants' Partial Motion to Dismiss, filed November 3, 2009, the plaintiff's response and the defendants' reply, it is

ORDERED that the plaintiff has correctly cited the Fourteenth Amendment as the basis for his claim of a violation of the Fourth Amendment, and it is

FURTHER ORDERED that the plaintiff has failed to state a claim for relief against Town of Vail, Colorado, and it is

FURTHER ORDERED that the motion to dismiss by defendant Luke J. Causey based on qualified immunity is denied. The allegations of the complaint are that the plaintiff was on the ground and handcuffed and a reasonable officer in Defendant Causey's position may not have found it reasonable to conduct a search of a suspect in the secure position.

Dated: December 9th, 2009

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior District Judge