

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

Civil Action No. 10-cv-03171-RPM

TODD SPERRY and
LINDA (TETTER) SPERRY, individually and
as the parents and guardians of J.S. and L.S.,

Plaintiffs,

v.

TONY LANE, individually, and in his official capacity as Chief of the Castle Rock Police Department,
TY PETERSEN, individually, and in his official capacity as corporal with the Castle Rock Police
Department,
JASON T. MAES, individually, and official capacity a sergeant of the Castle Rock Police
Department,
GEORGE ELDER, individually, and official capacity as an officer with the Castle Rock Police
Department,
BRANDON LEFEVRE, individually, and official capacity as an officer with the Castle Rock Police
Department,
TROY STEMBLE, individually, and official capacity as an officer with the Castle Rock Police
Department,
UNKNOWN OFFICERS OF THE CASTLE ROCK POLICE DEPARTMENT, individually, and official
capacity as an officer with the Castle Rock Police Department,
CITY OF CASTLE ROCK, COLORADO, a municipality,
CLIFTON PORTER, individually, and as an employee of Bradley Petroleum Corporation,
BARBARA GRAHAM, individually, and as an employee of Bradley Petroleum Corporation, and
BRADLEY PETROLEUM, INC, d/b/a SERVICE OIL, INC., a Colorado corporation, ,

Defendants.

ORDER DISMISSING DEFENDANTS CLIFTON PORTER, BARBARA GRAHAM AND
BRADLEY PETROLEUM, INC.

On February 2, 2011, Defendants Bradley Petroleum, Inc., Barbara Graham and Clifton Porter moved to dismiss the first and sixth claims for relief of the complaint under Fed.R.Civ.P. 12(c). The plaintiffs responded on February 22, 2011, and the moving defendants replied on March 1, 2011. While the motion cites Rule 12(c) it is not applicable because the pleadings have not been closed in this case. The motion is deemed a motion under Rule 12(b)(6) for the failure to state claims against these defendants upon which relief may be granted. Upon review of the allegations of the complaint, the motion should be granted because there is insufficient

factual support for a claim against these defendants under 42 U.S.C. § 1983 and for false imprisonment. According, it is

ORDERED that this civil action is dismissed as to the Defendants Bradley Petroleum, Inc., Barbara Graham and Clifton Porter.

DATED: March 3rd, 2011

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge