

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Magistrate Judge Kathleen M. Tafoya**

Civil Action No. 11-cv-00645-RBJ-KMT

FTR - Courtroom C-201

Date: July 9, 2012

Deputy Clerk, Nick Richards

ESTATE OF MARVIN L. BOOKER,
REVEREND B.R. BOOKER, SR., and
ROXEY A. WALTON, as Co-Personal
Representatives,

Darold W. Killmer
Lauren Louise Fontana

Plaintiffs,

v.

CITY AND COUNTY OF DENVER,
DEPUTY FAUN GOMEZ, individually and in her
official capacity,
DEPUTY JAMES GRIMES, individually and in
his official capacity,
DEPUTY KYLE SHARP, individually and in his
official capacity,
DEPUTY KENNETH ROBINETTE, individually
and in his official capacity,
SERGEANT CARRIE RODRIGUEZ, individually
and in her official capacity,
DENVER HEALTH AND HOSPITAL
AUTHORITY d/b/a DENVER HEALTH MEDICAL
CENTER,
GAIL GEORGE, R.N., individually and in her
official capacity, and
SUSAN CRYER, R.N., individually and in her
official capacity,

Eric Michael Ziporin
Joseph Michael Rivera
Jonathan Marshall Abramson
Brent T. Johnson
David Charles Colt
Sean Timothy Olson

Defendants.

COURTROOM MINUTES / MINUTE ORDER

MOTION HEARING

Court in session: 1:34 p.m.

Court calls case. Appearances of counsel.

Motion Hearing called regarding Plaintiff's Motion to Compel Discovery Against Law Enforcement Defendants [Doc. No. 77, filed May 11, 2012] and Defendant's Partially

Opposed Motion to Amend Scheduling Order [Doc. No. 88, filed June 27, 2012].

Oral argument by plaintiff.

Oral argument by defendant.

Court in Recess: 3:20 p.m.

Court in Session: 3:33 p.m.

It is **ORDERED**: Plaintiff's Motion to Compel Discovery Against Law Enforcement Defendants [77] is **GRANTED IN PART AND DENIED IN PART**.

The motion is **GRANTED** to the extent internal affairs files regarding an investigation subsequent to the incident in this case have been produced as to defendants Sharp and Robinette. Defendant's Sharp and Robinette may be re-deposed as to questions previously instructed not to answer with respect to this investigation **ONLY**. The costs of the depositions, exclusive of attorney's fees, will be paid by defendant City and County of Denver. Plaintiff will decide on or before July 13, 2012 as to whether they will conduct further depositions. The parties will confer on a date and time for the depositions.

The motion is **GRANTED IN PART AND DENIED IN PART** as to discovery of withheld documents connected with Use of Force reports and statutory privileges.

The motion is **GRANTED** with respect to the 203 Addendums to certain Use of Force reports withheld by the City and County of Denver. The addendums, marked "CONFIDENTIAL" pursuant to the protective order previously entered, will be produced.

With respect to the 23 Use of Force reports wherein inmate medical records were also attached, the motion is **DENIED**. Defendants shall not produce the medical records to Plaintiffs. Should plaintiffs' counsel wish to submit supplemental briefing on the matter as a Motion for Reconsideration, they may do so on or before July 16, 2012. Defendant's may respond on or before July 23, 2012.

The motion is **GRANTED** as to the 16 Use of Force reports concerning juvenile offenders. Prior to production, the reports are to be redacted to remove any identifying information and that the reports be marked both "CONFIDENTIAL" and "JUVENILE." Information pertaining to other juvenile witnesses or participants identified in the Use of Force report shall also to be redacted, together with any information concerning or identifying the

juvenile's family.

As to email communication between Ashley Kilroy and Nita Henry, defendant City and County of Denver shall submit the communications at issue for an in-camera review and file it with the court at Restriction - Level 3. The document will be filed no later than close of business on July 10, 2012. The court will issue a written opinion after examining the documents.

The motion is **DENIED** as to pre-employment psychological testing and polygraph testing. There are no claims of negligent hiring or retention practices in this matter.

The motion is **DENIED** as to request for individual defendants' financial information.

The motion is **DENIED** as to sanctions.

It is **ORDERED**: Defendant's Partially Opposed Motion to Amend Scheduling Order [88] is **GRANTED**. Discovery cut-off is extended to August 15, 2012 for the purposes of conducting the depositions of Dr. Werner Spitz, Dr. Steven Bird, Reverend James Peters, and Pastor Genovese Stribling ONLY. The deposition of Pastor Stribling will be treated as a preservation deposition.

Court in Recess: 4:49 p.m.

Hearing concluded.

Total In-Court Time 03:02

*To obtain a transcript of this proceeding, please contact Avery Woods Reporting at (303) 825-6119.