

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

Civil Action No. 12-cv-00763-RPM

RANDY LEE RIGGAN,

Plaintiff,

v.

THE CITY OF GLENDALE, COLORADO, a municipality,
OFFICER CHRIS TYROLT, in his official and individual capacity,
SERGEANT CRYSTAL JOHNSON, in her official and individual capacity,
SERGEANT JIM BANG, in his official and individual capacity,
OFFICER PAUL VONFELDT, in his official and individual capacity, and
OFFICER MATT WHETSTONE, in his official and individual capacity,

Defendants.

ORDER DISMISSING DEFENDANTS OFFICER PAUL VONFELDT AND OFFICER
MATT WHETSTONE

This civil action arises out of events that took place in Glendale, Colorado, on May 12, 2010. In the amended complaint filed August 8, 2012, the plaintiff named Officer Paul VonFeldt and Officer Matt Whetstone, Denver police officers, as additional defendants. These defendants have moved to dismiss this civil action as to them based on the bar of the two-year statute of limitation. The plaintiff acknowledges the untimeliness of the amended complaint but alleges that equitable tolling should be provided because of the difficulty in obtaining the names of the officers present at the scene. Equitable tolling is determined under Colorado law and the plaintiff has failed to show that these individual defendants were in any manner preventing disclosure of their names and the plaintiff has failed to show such exceptional circumstances as to warrant

equitable relief. As an additional basis for dismissal, the defendants observe that the only allegations that could be interpreted to apply to either of them is that an officer holding a rifle stood on the plaintiff's neck while he was being restrained. That alone is insufficient to state a claim against either of these named defendants. Upon the foregoing, it is

ORDERED that this civil action is dismissed as to Defendants Officer Paul VonFeldt and Officer Matt Whetstone.

DATED: February 15th, 2013

BY THE COURT:

s/Richard P. Matsch

Richard P. Matsch, Senior Judge