

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 15-cv-00989-GPG

ASHLEY MCDANIEL
TONYA MCDANIEL,

Plaintiffs,

v.

CITY AND COUNTY OF DENVER,
DENVER DISTRICT ATTORNEY,
DISTRICT TWO POLICE DEPARTMENT,
INTERNAL AFFAIRS,
INDEPENDENT MONITOR,
GLEN LEVY,
DIANE ARAGON,
OFFICER CHERLY SMITH,
OFFICER W. BOHM, badge number 13070,
OFFICER LITTLE, badge number 07040,
DETECTIVE LORI FREUND,
JUDGE KENNETH LAFF,

ORDER DENYING MOTION

This matter is before the Court on Plaintiffs' *pro se* Application for Temporary Restraining Order and Preliminary Injunction. (ECF No. 9) ("TRO Motion"). The Court must construe the motion liberally because Plaintiffs are not represented by an attorney. *See Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991). However, the Court should not be an advocate for a *pro se* litigant. *See Hall*, 935 F.2d at 1110. For the reasons discussed below, Plaintiffs' motion for a TRO will be denied.

The Federal Rules of Civil Procedure provide as follows with respect to issuance

of a temporary restraining order:

The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if: (A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and (B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1).

The Court finds that Plaintiffs are not entitled to issuance of a temporary restraining order in this case. First, Plaintiffs' Amended Complaint does not contain specific facts that clearly show they will suffer immediate and irreparable injury, loss, or damage before the Defendants can be heard in opposition. The Amended Complaint asserts nineteen (19) claims against eleven (11) separate defendants. However, none of the claims appear to allege a loss, injury, or damage that will occur in the future. Instead, Plaintiffs seek monetary and punitive damages for an alleged "secret civil infraction investigation perpetrated by the District Two Police Department acting illegally in a civil dispute between neighbors and property owners over a parcel legal description misprint." (ECF No. 8 at 4). The allegations in the Amended Complaint do not provide specific facts to clearly show that Plaintiffs will suffer immediate and irreparable injury, loss or damage if a TRO is not issued. Second, Plaintiffs do not indicate that they have attempted to give notice to defendants or why such notice should not be required. Therefore, Plaintiffs' motion for a TRO will be denied. Accordingly, it is

ORDERED that the Plaintiffs' Application for a Temporary Restraining Order and Preliminary Injunction filed on July 17, 2015, is **DENIED**.

DATED at Denver, Colorado, this 22nd day of July, 2015.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court