

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

KARA HAWKINS, Personal)
Representative of the Estate of)
PHILLIP HATCHER, Deceased,)
))
Plaintiff,)
))
vs.)
))
COUNTY OF LINCOLN, a Nebraska)
Political Subdivision; DOES 1-10, in their)
official and individual capacities; CITY OF)
NORTH PLATTE, a Nebraska Political)
Subdivision; and GREAT PLAINS)
REGIONAL MEDICAL CENTER, a)
Nebraska corporation,)
))
Defendants.)

7:10CV5001

ORDER

This matter is before the court on the motion (Filing No. 138) of defendant, County of Lincoln ("County"), to quash the deposition of Police Sgt. Steve Toelle, who is an employee of the City of North Platte ("City"). In the alternative, the County requests that the court issue a protective order limiting the permissible scope of Sgt. Toelle's deposition. The City has not joined in the County's motion or requested similar relief. The court has considered the plaintiff's responsive brief (Doc. 141) and finds that the County's motion should be denied.

The County and the City have both filed motions for summary judgment based on qualified immunity. On August 26, 2010, this court entered an order granting the County's motion for a stay of discovery pending the district court's ruling on the County's motion for summary judgment: "Discovery is stayed as to the County and any Doe defendants who are County employees, without prejudice to plaintiff filing, if necessary, a motion for leave to conduct limited discovery on the issue of qualified immunity." Order No. 54. Discovery was not stayed as to any other party.

Now, the County seeks to prevent the plaintiff from deposing an individual who is not an employee of the County, and the City has not objected to plaintiff deposing its employee. Preventing plaintiff from deposing City Police Sgt. Toelle would not tend to advance the objectives of the doctrine of qualified immunity as asserted by the County of Lincoln. Therefore,

IT IS ORDERED that the County's Motion to Quash (Doc. 138) is denied.

DATED February 18, 2011.

BY THE COURT:

**s/ F.A. Gossett, III
United States Magistrate Judge**