

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

PASTOR ADEN RUSFELDT,

Plaintiff,

22-cv-594 (PKC)

-against-

ORDER

CITY OF NEW YORK, NEW YORK; DERMONT SHEA, in his official capacity as Commissioner of the City of New York Police Department; KEECHANT SEWELL, in her official capacity as Commissioner of the City of New York Police Department; STEPHEN SPATARO, in his official capacity as Captain of the City of New York Police Department; and OFFICERS JOHN DOE 1-10, in their official capacities as officers of the City of New York Police Department,

Defendants.

-----X

CASTEL, U.S.D.J.

The Court is in receipt of Rusfeldt’s letter of June 24, 2022 (Doc 45) and will consider the letter as a motion for reconsideration of the Court’s June 24, 2022 Opinion and Order denying Rusfeldt’s motion for a preliminary injunction.

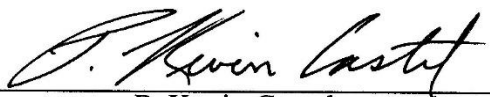
The June 24 Opinion and Order misattributed a proposed stipulation term to the City instead of Rusfeldt which has since been corrected in the Corrected Opinion and Order also of June 24, 2022. The rationale for the Court’s Opinion and Order remains unaltered. “[B]ased on the evidence depicted in the videos of the 2021 March and the parties’ positions apparent from their briefing, oral argument and negotiations . . . Rusfeldt has failed to show a likelihood

of irreparable harm”— that the City intends to prevent constitutionally protected speech by Rusfeldt. (June 24, 2022 Opinion and Order at 5-6.)

As the parties are aware, the City, in its June 23, 2022 submission to the Court, represented as follows: “[i]n response to the seven point proposal provided by plaintiff’s counsel defendants indicated that . . . plaintiff, like anyone else, was free to . . . engage in protected 1st Amendment Speech.” (Doc 43 at 1.) The City also emphasized that “[p]laintiff, like anyone else, is free to attend the upcoming 2022 Pride March that is scheduled to take place on June 26, 2022 and engage in 1st Amendment activity. However, everyone . . . is required to follow the law,” noting that under the Supreme Court’s First Amendment precedent, “fighting words” are generally proscribable. (*Id.* at 3.) The City’s position that Rusfeldt would be free to engage in constitutionally protected speech is consistent with the City’s previous representations, such as those made during June 10, 2022 hearing, which prompted the Court to urge the parties to negotiate once more, as their positions did not appear to be substantially apart.

Accordingly, Rusfeldt’s motion for reconsideration of the Court’s June 24, 2022 Opinion and Order is DENIED.

SO ORDERED.


P. Kevin Castel
United States District Judge

Dated: New York, New York
June 24, 2022