

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge R. Brooke Jackson

Civil Action No. 20-cv-01616-RBJ

AGAZI ABAY,
GABRIEL THORN,
AMY SCHNEIDER, and
MICHAEL McDANIEL

Plaintiffs,

v.

CITY OF DENVER,

Defendant.

ORDER ON MOTION FOR AN ORDER TO SHOW CAUSE

On July 27, 2020 plaintiffs filed what they labeled as a motion for an order to show cause. ECF No. 44. In substance the motion asked the Court to order the Denver Police Department to explain why conduct shown in photos and videos of incidents on July 1 and July 19, 2020 does not violate the stipulation and order entered in this case on June 26, 2020.

The July 1 photos purport to show that a few Denver police officers responded to a protest without body-worn cameras. The July 19 videos purport to show Denver police officers dispersing projectiles and chemical agents at peaceful protesters. Defense counsel responded that a substantive response was not permitted unless the Court issues an order to show cause as to why the Department should not be held in contempt. ECF No. 45 at 1. Nevertheless, the response goes on to suggest, apparently in the opinion of counsel, that the photos and videos might have a benign explanation. ECF No. 45.

The Court apologizes for its delayed response to the motion. Rather than setting a contempt hearing now, the Court instead express its concern about the cavalier attitude reflected in the defendant's response to the pending motion. The settlement was designed to prevent recurrences of these incidents and to prevent needless future lawsuits, for the benefit of the public and the Department. The Denver Police Department should be aware that this Court has referred to the settlement as rendering injunctive relief potentially unnecessary in several pending lawsuits against the Department, including class action lawsuits, arising from police actions during the protests. The Denver Police Department at the very highest level should have a keen interest in assuring that its officers comply fully with the stipulation. Rather than accepting a procedural non-response to the plaintiffs' motion, the Department should have jumped on these photos and videos, determined what they do show, and provided the plaintiffs and the Court with a substantive response, including if necessary admissions of any non-compliance and assurances that the non-complying conduct has been dealt with internally and will not recur. If it has not done so, then it should do so now.

This Court greatly respects the important, difficult and often dangerous work the Department does on behalf of all of us. It gives me no pleasure to preside over lawsuits or contempt proceedings against the Department, but you must do your part.

Dated this 23rd day of November, 2020

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", written in a cursive style.

R. Brooke Jackson
United States District Judge