



DATE: August 17, 2023

TO: Colorado Springs City Council

FROM: Office of the City Attorney

SUBJECT: *Rebecca Varney v. The City of Colorado Springs, Colorado Springs Police Chief Adrian Vasquez, Colorado Springs Police Officer David Kester, and Colorado Springs Police Officer Carlotta Rivera 23-CV-1768-CNS-MDB*

This memorandum is to apprise you of the facts alleged in the above-referenced case as you consider the claims made against the officers involved.

NATURE OF THE CASE

Plaintiff, Rebecca Varney, by and through her attorney, brought this case, in US District Court, District of Colorado, alleging that Defendants violated the Fourth and Fourteenth Amendments of the United States Constitution and Sections 7, 25, and 29 of Article II of the Colorado Constitution. Plaintiff's claims against Officers Kester and Rivera are individual capacity claims and her claims against Chief Vasquez are official capacity claims. Specifically, Plaintiff claims that Officers Kester and Rivera failed to adequately investigate her claims of domestic abuse and theft. Plaintiff also claims that Officer Rivera violated her Equal Protection rights by believing her ex-husband's version of events over hers. Finally, Plaintiff claims that the City and Chief Vasquez failed to properly train their officers with regard to investigating domestic violence situations.

Plaintiff alleges that on July 18, 2021, she contacted the Colorado Springs Police Department to report a theft by her now ex-husband. At the time of the incident the two were still married. She also alleges that two days prior, her ex-husband had fractured her wrist and attempted to assault her sexually. Plaintiff claims that Officers failed to take her seriously, that they interrupted her several times and prevented her from explaining her side of the story. She also claims that they misrepresented her statements when they spoke to her ex-husband and when they presented a warrant for her arrest to a judge. Because of this, Plaintiff claims that she spent 36 hours in jail and faced charges of harassment and violation of probation. Plaintiff claims that the charges against her were dropped. Plaintiff alleges that none of the officers involved were disciplined or provided additional training as a result of this incident. She is asking for

injunctive relief, economic damages, compensatory damages, punitive damages, fees, costs, and interest.

According to reports, on July 18, 2021, Officers Kester and Rivera responded to a cold domestic disturbance at 718 Bryce Drive. Arriving at the scene, they met with Plaintiff who advised them that her ex-husband had recently taken pots, pans, and other items that belonged to her. She also alleged that he had broken her wrist when he had shut a door on her arm. Plaintiff presented Officers with a video, which showed her attempting to get into a room. In the video, her ex-husband was already in the room and trying to keep her out. Aware that there was a restraining order against Plaintiff, Officers stepped outside the residence to discuss the situation. When they returned, Plaintiff failed to answer the door. While at the residence, Officers attempted to call Plaintiff's ex-husband, but they were unable to speak with him. However, they were able to speak with him over the phone at a later time. Ultimately, Officers concluded that Plaintiff was the aggressor in the situation and sought a warrant for her arrest on charges of harassment and violation of a protection order.

RECOMMENDATION

The Civil Action Investigation Committee has recommended that the City represent the above-named officers as required by the Colorado Governmental Immunity Act and the Peace Officer's Liability Act. The officers were acting in the course and scope of their employment and were acting in good faith. As usual, it is recommended that the City reserve the right not to pay any award of punitive damages.