



DATE: May 24, 2021

TO: Colorado Springs City Council

FROM: Civil Action Investigation Committee

SUBJECT: *Candace Sgaggio v. John Suthers, Don Knight, David Geislinger, Richard Skorman, Yolanda Avila, Jill Gaebler, Bill Murray, Tom Strand, Wayne Williams, Marcus Allen, Tyler Bresson, Nicholas Hamaker, Eric Anderson, Vince Niski, City of Colorado Springs, Case No. 21-cv-00163- KMT, United States District Court, District of Colorado*

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

NATURE OF THE CASE

Plaintiff worships with marijuana at the Sinsemilla's House of Worship (formerly Greenfaith Ministry) at 1850 N. Academy Boulevard. Her *pro se* complaint arises out of a variety of contacts with City employees at the property and purported City policies.

She alleges that CSPD Officer Marcus Allen visited the exterior of the building in search of an at-risk individual on January 21, 2019. Mrs. Sgaggio complains that Officer Allen's visit prevented her from worshipping in violation of the Free Exercise of Religion clause of the First Amendment, and it constituted retaliation for the exercise of First Amendment rights. She also claims that Officer Allen violated her Fourth Amendment rights against unlawful searches and seizures of the property.

On April 20, 2019, unnamed officers purportedly blocked the entrance to the property. Plaintiff similarly alleges that this conduct violated her Free Exercise rights by stopping her prayer, amounted to retaliation for her exercise of her Free Exercise rights, and violated her Fourth Amendment rights against unlawful searches and seizures.

Mrs. Sgaggio generally alleges that CSPD Chief Niski and Sgt. Eric Anderson failed adequately to supervise the officers.

Plaintiff alleges that Mayor Suthers and Councilmembers Avila, Gaebler, Geislinger, Knight, Murray, Skorman, Strand, and Williams failed to respond to emails her husband, Delbert Sgaggio, sent to them to complain about purported civil rights violations. She further alleges that they, as policymakers for the City, are liable for the following purported City policies:

1. The failure to inform police officers about pending civil rights litigation.
2. The failure to file and document civil rights complaints.
3. The failure to discipline police officers.
4. Restraining the free exercise of religion.
5. Violating the Establishment Clause of the First Amendment by maintaining an Extra Duty Police Services arrangement whereby those who can pay to hire police officers due to a special law enforcement need may do so.

RECOMMENDATION

The Civil Action Investigation Committee met on April 28, 2021, and has recommended that the City represent the City officials and employees as required by the Colorado Governmental Immunity Act and, with respect to the police officers, the Peace Officer's Liability Act. The City employees were acting in the course and scope of their employment and not in a willful and wanton manner. As usual, it is recommended that the City reserve the right to not pay any award of punitive damages.