



DATE: May 24, 2021

TO: Colorado Springs City Council

FROM: Civil Action Investigation Committee

SUBJECT: *Christian Diaz v. Marcus Allen, Tyler Bresson, Nicholas Hamaker, Eric Anderson, City of Colorado Springs, Case No. 21-cv-00193-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 employees.

NATURE OF THE CASE

Mr. Diaz worships with marijuana at the Sinsemilla's House of Worship (formerly Greenfaith Ministry) at 1850 N. Academy Boulevard. His *pro se* complaint arises out of certain Defendants' visits to the property. Mr. Diaz does not allege that any of the Defendants made contact with him at any time.

Mr. Diaz alleges that CSPD Officer Marcus Allen visited the exterior of the building in search of an at-risk individual on January 21, 2019. Mr. Diaz voluntarily "extinguished [his] joint" because he was afraid that Officer Allen was going to enter the building and see him smoking, potentially in violation of his probation for a driving violation. Mr. Diaz allegedly suffered a panic attack and did not come back to the church for two to three months.

Mr. Diaz alleges that CSPD Officers Tyler Bresson and Nicholas Hamaker blocked the front entrance of the property on April 20, 2019. Mr. Diaz was "in the outdoor prayer area" at the time. "[S]omeone in the crowd" said the "Church is on lockdown," "nobody leaves or enters." Mr. Diaz complains that the police activity in front of the building "disrupted" his prayer. After this event, he again did not go back to the church for a couple of months.

There are no allegations concerning CSPD Sgt. Eric Anderson's involvement in any contact with Mr. Diaz.

Mr. Diaz asserts three claims against the four City employees:

1. First Amendment violation of free exercise of religion
2. First Amendment retaliation for free exercise of religion
3. Fourteenth Amendment denial of equal protection

RECOMMENDATION

The Civil Action Investigation Committee met on April 28, 2021, and has recommended that the City represent the 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 not in a willful and wanton manner. As usual, it is recommended that the City reserve the right not to pay any award of punitive damages.