



DATE: November 2, 2017

TO: Colorado Springs City Council

FROM: Office of the City Attorney

SUBJECT: *Rodolfo Rivera Jr. v. Officer John Granillo*
Civil Action No. 17-cv-01667-KMT

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

NATURE OF THE CASE

Plaintiff, Rodolfo Rivera Jr., brought this claim in U.S. District Court, District of Colorado, alleging Officer John Granillo, violated his fourth and fourteenth amendment rights. Specifically, Plaintiff claims he was arrested without probable cause and discriminated against because of his gender. Plaintiff also alleges that Officer Granillo engaged in excessive force in the course of his arrest.

Plaintiff alleges that on the evening of October 30, 2015, Officer Granillo arrested him based on a false claim that he had hit his girlfriend the night before. He claims Officer Granillo placed him in handcuffs and forced him to sit in a puddle of urine in the back of Officer Granillo's patrol car. According to Plaintiff, he told Officer Granillo multiple times that the handcuffs were too tight. Plaintiff claims that the incident left him with a sprained wrist. He alleges that Officer Granillo lacked probable cause to arrest him, and points to an acquittal of the criminal charges as proof of his claim. Finally, he claims Officer Granillo took his girlfriend's side and assumed that Plaintiff was the aggressor simply because he is a male.

According to the reports for this incident, on October 30, 2015 at or about 11:06 p.m., Officer Granillo responded to a call for service at 5740 Pemberton Way. Upon arrival he met with the girlfriend who told him that she had been in an argument with Plaintiff, that she wanted him out of the house, and that the night before, Plaintiff had struck her. Before speaking at length with the girlfriend, Officer Granillo spoke with Plaintiff, who told him there had been no incident and he had nothing to discuss. Officer Granillo placed Plaintiff in handcuffs and detained him in his patrol car while he continued his

investigation. Officer Granillo spoke further with the girlfriend as well as her son. The son stated the day before he heard a verbal altercation between Plaintiff and his mother. The son stated that he heard his mother scream "Ow." He believed that this was her response to a physical altercation. Officer Granillo again attempted to discuss the incident with Plaintiff. However, Plaintiff did not wish to discuss the issue further. Officer Granillo arrested Plaintiff for third degree assault and harassment. He also completed a probable cause affidavit for the charges. The affidavit was reviewed by an El Paso County District Court Judge who determined that probable cause existed to arrest Plaintiff. On the way to the Falcon Substation, Plaintiff twice complained, in a conversational tone, that the handcuffs were too tight. Officer Granillo explained that he would remove the handcuffs once they arrived at the substation. Finally, Sergeant Fred Walker was present and observed Officer Granillo detain, handcuff, and arrest Plaintiff. Sergeant Walker did not see any issues with the way Officer Granillo handcuffed Plaintiff. Neither did Plaintiff complain to Sergeant Walker that the handcuffs were too tight when Sergeant Walker inquired into Plaintiff's well-being fifteen minutes after he had been detained.

RECOMMENDATION

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