

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:18-CV-03112-RBJ-STV

SEAN SLATTON,

Plaintiff,

v.

TODD HOPKINS,
BRANDON BARNES,
JOHN HUTTO,
AND FORT COLLINS POLICE DEPARTMENT

Defendants.

REPLY IN SUPPORT OF OFFICER HOPKINS MOTION TO STAY DISCOVERY

Defendant, Todd Hopkins, appearing separately from the other named Defendants, by and through his attorneys at Nathan Dumm & Mayer P.C., hereby submits his Reply in Support of his Motion to Stay [ECF 30] and in response to Mr. Slatton’s “Response to Fort Collins City Attorney’s Motion/Pending Motion to Stay Pending Discovery . . .” [ECF 36]. In support of Officer Hopkins’ Motion to Stay, he alleges as follows:

First, because Mr. Slatton’s pleading is confusing, the undersigned conferred with him about it on or about June 17, 2019. As part of that exchange Mr. Slatton confirmed that ECF 36 was intended to be a Response to the Motion to Stay and not a separate motion. Officer Hopkins is relying on Mr. Slatton and treating the pleading solely as a response and not as a separate motion.

Second, in reviewing ECF 36 with that in mind, Mr. Slatton's Response does not in any way substantively dispute the key case relied upon or legal analysis contained in Officer Hopkins' original Motion to Stay. In fact, other than requesting in the paragraph entitled "1." on page 1 of the Response that the court deny the Motion to Stay, Mr. Slatton's entire pleading simply indicates materials he would potentially want during discovery.

Third, with respect to Mr. Slatton's statements as to records he would like as part of discovery, those items are not relevant to the pending Motion to Dismiss filed by Officer Hopkins at ECF 28. The body camera footage from Officer Hopkins, as to the specific conduct at issue, was already attached as an exhibit to the Motion to Dismiss. None of the other materials referenced by Mr. Slatton are relevant to the legal arguments contained in the pending Motion to Dismiss. As such, these materials do not need to be provided at this stage and can be addressed, as appropriate, in discovery, should this case proceed past the Motion to Dismiss.

Fourth, Mr. Slatton's attempt to seek his own relief, instead of simply requesting a denial of the Motion to Stay, is not appropriate and, thus, should be ignored. See D.C.COLO.LCivR 7.1(d)("A motion shall not be included in a response or reply to the original motion. A motion shall be filed as a separate document").

In conclusion, the case law and legal analysis contain in Officer Hopkins' Motion to Stay is unrebutted. As set forth in that Motion, when looking at the five factors pertinent to the requested stay, all five factors weigh in favor of a stay of all discovery pending a determination on Officer Hopkins' Motion to Dismiss and, specifically, a determination on the defense of qualified immunity.

WHEREFORE, Officer Hopkins continues to request that a stay of all discovery be issued.

Respectfully submitted this 20th day of June, 2019.

/s/ Marni Nathan Kloster

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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of June, 2019, I electronically filed the foregoing **REPLY IN SUPPORT OF OFFICER HOPKINS MOTION TO STAY DISCOVERY** with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following at their e-mail addresses:.

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