

**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.

RESPONSE TO PLAINTIFF’S MOTION FOR EXTENSION [ECF 56& 59]

Defendant, Todd Hopkins, appearing separately from the other named Defendants, by and through his attorneys at Nathan Dumm & Mayer P.C., hereby responds to Plaintiff’s Motion for Extension [ECF 56& 59] as follows:

For several reasons, as set forth below, Plaintiff’s newest motion for extension should be denied. However, to the extent the Court intends to grant Plaintiff a further extension, Defendant Hopkins contends it should not be for twenty-one days, but rather a much shorter period of time, such as seven days or less.

As for the reasons why a denial of Plaintiff’s newest motion would be appropriate, first, Plaintiff has already been given extensions and does not provide good cause for yet another one. As to the relevant timeline of events, at least as to this Defendant, on or about June 14, 2019, almost two months ago, this Defendant filed his Motion to Dismiss. As an attached exhibit to that Motion this Defendant included the relevant body camera footage. Based upon that filing

Plaintiff's response would normally have been due on or July 5, 2019. At this point, Plaintiff has already had an additional a month beyond when Plaintiff's response should have been filed.

Given that Plaintiff has had the applicable footage for several months his reliance on the need for videos, at least as to this Defendant, is misplaced and not a legitimate ground for further extension.

Moreover, while not directed at this Defendant or his attorneys, according to Plaintiff's own Motion, Plaintiff was provided additional, not directly relevant to this Defendant, body camera footage from the City on or about July 19, 2019. Plaintiff waited until two days before his already extended Response deadline and weeks after the videos were provided to advise for the first time that there were alleged problems with some of the videos. If Plaintiff was being diligent in his prosecution of this case and there was a problem with any of the footage received on or about July 19, 2019, why did Plaintiff wait nearly three weeks and until the eve of his deadline to so advise? His Motion and his conferral fail to provide any explanation, let alone a legitimate one.

It is also not clear from Plaintiff's motion or his conferral whether any of the videos he indicates he is having trouble opening are actually pertinent to either of the pending motions to dismiss. Given that Plaintiff has had the applicable footage as to this Defendant for months, any problematic videos should be irrelevant to Defendant Hopkins Motion to Dismiss and the response.

Second, Plaintiff failed to fully confer prior to filing the motion. Plaintiff's conferral consisted solely of him sending an email at 5:32 p.m. on August 6, 2019 attaching the motion, which by its own wording had indicated that it had already been filed. Plaintiff will no doubt

allege that he did not confer because in conferral over a prior motion for extension from early July, 2019 counsel for Defendant Hopkins indicated a further extension by Plaintiff was not necessary and thus opposed. However, a proper conferral over Plaintiff's newest motion should have occurred prior to filing. Had it properly occurred maybe the parties could have reached an agreement as to a short extension.

Third, while Plaintiff references in his newest filing the potential to retain counsel, he has indicated that before and yet no counsel has entered his appearance. This lawsuit was filed nearly eight months ago and the significant delay in prosecution have been the result of Plaintiff's inaction and/or delays.

In conclusion, Defendant Hopkins believes that Plaintiff has already been given more than sufficient time in light of the materials provided originally at the time of the filing of the Motion to Dismiss and since to respond to Defendant Hopkins previously filed and pending Motion to Dismiss and there are valid grounds for denial of Plaintiff's motion. However, should this Court entertain another extension of time for Plaintiff, in light of the previous extensions and the timeline of events, it should be far shorter than the twenty-one days requested, specifically it should be less than seven days.

Respectfully submitted this 8th day of August, 2019.

/s/ Marni Nathan Kloster

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of August, 2019, I electronically filed the foregoing **RESPONSE TO PLAINTIFF'S MOTION FOR EXTENSION [ECF 56 & 59]** 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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/s/ Marni Nathan Kloster

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