



DENVER
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Office of the Independent Monitor

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OCT 19 2010

October 14, 2010

Mark Silverstein
Legal Director,
ACLU of Colorado
400 Corona Street
Denver, CO 80218-3915

Internal Investigations Case Number P200902029

Dear Mr. Silverstein:

On August 27, 2010, you co-signed a letter addressed to the Denver Police Department Internal Affairs Bureau requesting that the above-noted Internal Affairs case be reopened. Your request was largely based upon a County Court Judge's findings in Case #B852276 on June 26, 2009, involving your client Ashford Wortham and his companion.

In your letter, you referenced a disposition letter sent to you by the District 6 Commander on May 15, 2009 stating that it was impossible to prove your client's allegations of biased policing due to the contradictions between your client's testimony and that of the involved officers.

In fact, this case was reopened soon after this Office was advised of the findings of biased policing by the County Court Judge in order to review the transcript of the hearing and determine if further action should be taken by the Department. The reopening of the case did result in a sustained finding against Sergeant Speelman for failing to notify a superior that your client attempted to file a complaint against him and the other two involved officers at the District 6 station. It was determined, however, that there was still insufficient evidence to sustain the biased policing allegation.

While the Judge made specific findings that your client and his companion were stopped without probable cause and that the "police conduct was extreme, profane and racially motivated," those findings were based solely on the testimony provided by your client and his companion. There was no objective evidence provided in court which can now be used to establish the truth or falsity of either your client's version of the events or that proffered by the involved officers. In addition, any inconsistencies between the statements of the involved officers could readily be explained away as innocent discrepancies. As such, none of the inconsistencies would support a "sustained" finding for "departing from the truth."



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It appears that the Judge decided that your client's testimony was more credible than the testimony of the officers, as was her right as the finder of fact. However, those findings would likely not be admissible in an administrative disciplinary appeal, where the officers would have their own legal counsel, receive a full evidentiary hearing, and be entitled to the benefit of any doubt as to their credibility and motivations. The Department has to consider all of the objective evidence to determine whether there is sufficient evidence to prove that the officers violated departmental rules. Given the lack of objective, factual evidence corroborating your client's version of the events, we do not believe that such a finding could be sustained.

In the absence of any new information, it is the position of both the Denver Police Department and this Office that there is not adequate cause to reopen this case. If you do learn of new information that might warrant reopening the investigation, please do not hesitate to contact this office or the Denver Police Department.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Rosenthal".

Richard A. Rosenthal
Independent Monitor