

DISTRICT COURT, COUNTY OF BOULDER, STATE OF COLORADO 1777 6 <sup>th</sup> Street P.O. Box 4249 Boulder, CO 80306	^ COURT USE ONLY ^
<b>Plaintiffs:</b> <b>FLEET RUSSELL WHITE, JR.</b> , an individual; and <b>PRISCILLA BROWN WHITE</b> , an individual  v.  <b>Defendants:</b>  <b>CITY OF BOULDER</b> , a Colorado home rule municipality and <b>MARK R. BECKNER</b> , in his official capacity as Chief of the Boulder Department of Police and Custodian of records for the Boulder Department of Police	
<b>Plaintiffs pro se:</b> Fleet Russell White, Jr. Priscilla Brown White	
<b>MOTION FOR RECONSIDERATION AND TO AMEND JUDGMENT AND/OR  ORDER PURSUANT TO C.R.C.P. 59 AND/OR C.R.C.P. 60</b>	

Plaintiffs, Fleet Russell White, Jr. and Priscilla Brown White, proceeding pro se, hereby submit the following Motion for Reconsideration and To Amend Judgment and/or Order Pursuant to C.R.C.P. 59 and/or C.R.C.P. 60. In support thereof, Plaintiffs state as follows with regard to the Court's April 29, 2014 Order Re Defendants Motion to Dismiss for Failure To State a Claim based On Claim Preclusion Or Issue Preclusion ("Order"):

1. In its Order, the Court correctly acknowledges that “new information” regarding “certain aspects of the JonBenet Ramsey murder investigation” have been brought to the Plaintiffs’ and the public’s attention since 2002. The court errs, however, by nonetheless asserting that Plaintiffs’ complaint is “barred under the principles of res judicata and collateral estoppel.” Either the issues underlying Plaintiffs’ 2002 petition and Plaintiffs’ 2014 petition are the same or they are not. Absent additional analysis by the court regarding the application of res judicata and collateral estoppel on the unique circumstances of this matter, Plaintiffs assertion of issue non-identity should be more than sufficient to defeat the assertions of Defendants.

2. In its Order, the court has erred in assuming that Plaintiffs seek “relief from defamation caused by the publication of Ms. Krebs’ false claims and allegations” through the filing of a libel claim. Plaintiffs are very aware that such a claim is time barred and was so in 2002 as well. To be clear, in the instant action Plaintiffs seek public disclosure of the Krebs investigation criminal justice records in order to provide the public a factual basis for the evaluation of Ms. Krebs veracity. Thus, the statute of limitations is irrelevant to Plaintiffs’ claim. Moreover, the court has further erred by taking Plaintiffs’ “assertion” in ¶ 22 out of context. Plaintiffs clearly state:

“Plaintiffs now also seek the Krebs investigative records to obtain public transparency regarding the actions of various government officials whose actions have, over the past 14 years, thwarted, frustrated and prevented Plaintiffs’ attempts to obtain relief from the defamation caused by the publication of Ms. Krebs’ false claims and allegations.”

Clearly, Plaintiffs seek “public transparency”, not a libel claim.<sup>1</sup>

3. The Court has erred in that its Order not only bars Plaintiffs from seeking court review of Defendant’s current denial of access, it will also bar Plaintiffs from seeking court review of any future denial, even when circumstances change once again and there is no longer any basis for a custodian to deny disclosure on the basis of injury to the public interest including, for example, when there has been a successful prosecution of JonBenet Ramsey’s homicide and the Krebs investigation records cannot reasonably be claimed to have any further value as police intelligence. In such event, Plaintiffs would certainly once again request the Krebs investigation criminal justice records. Based on Plaintiffs’ past experience, it is likely Defendants would once again deny such access. Defendants’ knowledge that Plaintiffs are forever barred from seeking court review of the denial under the Colorado Criminal Justice Records Act, §24-72-305(7), C.R.S. would certainly make such denial much easier for Defendant, or any other custodian in similar circumstances, even if there is not a legitimate basis for doing so. Thus, if left to stand, the Court’s Order and any progeny will vitiate the remedial potency of §24-72-305(7), C.R.S. as it was envisioned by the general assembly.

WHEREFORE, Plaintiffs, Fleet Russell White, Jr. and Priscilla Brown White, pursuant to C.R.C.P. 59 and/or C.R.C.P. 60 and §24-72-305 (7), C.R.S., respectfully request that:

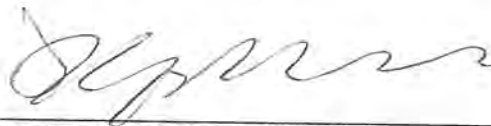
- (a) The Court vacate its Order dismissing the Plaintiffs Complaint and Application for Order to Show Cause.

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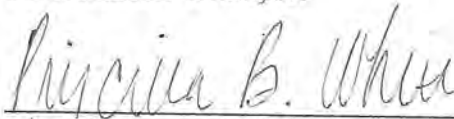
<sup>1</sup> In the last paragraph on Page 1 of its order, the court makes reference to Ms. Krebs false claims and allegations “purportedly made in her May 15, 2000 City of Boulder News Release (Response ¶11, Ex. 5)” Plaintiffs do not know what the court intends by this reference. The May 15, 2000 News Release attached as Exhibit 5 to Plaintiffs’ Response was not authored by Ms. Krebs nor was the news release the vehicle for publication of her claims and allegations.

- (b) The Court enter an order directing Defendants to show cause why Defendants should not permit the inspection and copying of all criminal justice records described in Plaintiffs' February 19, 2014 letter addressed to Defendant Beckner as described in said Complaint and Application for Order to Show Cause.
- (c) The Court conduct a hearing pursuant to such order "at the earliest practical time" as required by §24-72-305 (7), C.R.S., and after such hearing to make the Show Cause Order absolute.

Dated: May 13, 2014.



Fleet Russell White, Jr.



Priscilla Brown White

### CERTIFICATE OF SERVICE

I hereby certify that on this 13<sup>th</sup> day of May, 2014, the above and foregoing was filed with the Boulder District Court and that a true and correct copy was served by placing said copy in the United States mail, postage prepaid, and addressed as follows:

The City of Boulder  
Office of the City Attorney  
Thomas A. Carr  
P.O. Box 791  
Boulder, CO 80306

A handwritten signature in black ink, appearing to read "Fleet Russell White, Jr.", written over a horizontal line.

Fleet Russell White, Jr., Plaintiff