

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

Trisha Farkarlun,

Plaintiffs,

v.

Deputy Hannig, et al,

Defendants.

MOTION FOR INDICATIVE RULING

INTRODUCTION

This Court dismissed all of Farkarlun's claims upon consideration of the City-defendant and County-defendants' motions for summary judgment. Farkarlun appealed. However, due to some continuing medical issues of Appellant counsel, briefing has not yet begun in the appeal. It has not been a year since this Court dismissed this case.

On August 29, 2012, the Eighth Circuit Court of Appeals decided *Beaulieu v. Ludeman*, No. 11-1845 (8th Cir. August 29, 2012). As this Court is aware, a new ruling (mandatory precedent) is a basis for district court to revisit their earlier ruling. Farkarlun urges this Court to do so, and notes that the recently-added Fed.R.Civ.P. 60.1 specifically creates a process for this Court to consider re-opening this case.

Farkarlun cites to her memorandum in opposition to summary judgment for the detailed facts of this case. However, for purposes of this motion, it should be noted that:

In the MSOP case cited above, the search policy was applied to everyone equally. In Farkarlun's case, the record shows only that a strip search was performed on her (more on that below);

The Eighth Circuit deferred to the expertise in the MSOP case. In Farkarlun's case, the County failed to supply the Court with any expert opinion as to why strip searches are required in the Hennepin County jail, at all, let alone in the manner on which it was performed on her;

The Eighth Circuit held in the MSOP case that while it is not necessary for officials to employ the least-invasive search technique available, it is proper for courts to consider the availability of simple, safe, and less invasive techniques that officers elected not to pursue when assessing the reasonableness of performing the search.

As this Court will recall, although the Jail had available a private room where same-sex searchers could assess Farkarlun, the individual defendants in this case chose not to go there, but instead began immediately to take Farkarlun to the ground, and to strip her in front of men, and in a fairly public room.

Plaintiff Farkarlun respectfully requests that this Court issue an indicative ruling (either that is has reconsidered the issue and will send the case to trial, or that it is willing to consider the issue further). The time is appropriate now, since the briefing has not begun at the Eighth Circuit Court of Appeals.

Dated: September 3, 2012

ATTORNEY FOR FARKARLUN

Jill Clark, Esq. (196988)

2005 Aquila Av. N.

Golden Valley, MN 55427

763/417-9102