

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TITUS HENDERSON,

Plaintiff,

v.

DAVID BELFUEIL,

Defendant.

ORDER

03-C-729-C

Plaintiff Titus Henderson has filed documents titled “Petition for a Writ of Habeas Corpus Ad Testificandum” and “Motion in Limine of Evidence & IFP Witnesses.” In his petition for a writ of habeas corpus, plaintiff asks that the court issue a writ of habeas corpus ad testificandum for his presence at the trial of this case scheduled for Monday, August 22, 2005. This motion will be denied as unnecessary. The directive to the clerk of court to issue a writ of habeas corpus ad testificandum for plaintiff’s attendance at trial was given in this court’s order of June 16, 2005. There is no need for a second such directive.

I construe plaintiff’s “Motion in Limine of Evidence & IFP Witnesses” as a motion for reconsideration of this court’s order of August 1, 2005, denying plaintiff’s request for a waiver of the witness fees and mileage costs necessary to obtaining the attendance at trial of

Sgt. Muhler and Janelle Paske, whom plaintiff seeks to subpoena. Plaintiff cites McNeil v. Lowney, 831 F.2d 1368, 1373-74 (7th Cir. 1987), to support his renewed request for waiver of the witness fees. As I have already explained to plaintiff in the August 1 order, McNeil confirms that courts do not have statutory authority to waive these fees. Id. at 1373 (“district court had no statutory authority for waiving the payment of witness fees”). Although the court suggested that a litigant’s due process rights might be violated if he were unable to call a witness who is the *sole* source of information *critical* to his case, plaintiff is proceeding to trial on one very narrow issue: whether he gave consent to have his blood drawn. No one is more qualified to testify on this issue than plaintiff himself.

Because nothing in plaintiff’s motion for reconsideration convinces me that I erred in denying his request for waiver of the fees for subpoenaing witnesses, the motion will be denied.

ORDER

IT IS ORDERED that plaintiff’s motion for issuance of a petition for a writ of habeas corpus ad testificandum is DENIED as unnecessary.

Further, IT IS ORDERED that plaintiff’s “Motion in Limine of Evidence & IFP Witnesses,” which has been construed as a motion for reconsideration of this court’s order

of August 1, 2005, is DENIED.

Entered this 10th day of August, 2005.

BY THE COURT:
/s/
BARBARA B. CRABB
District Judge