

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

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WILLIAM A. PARUS,

Plaintiff,

FINAL PRETRIAL
CONFERENCE ORDER

v.

05-C-0063-C

THOMAS KROEPLIN, CLAY KREITLOW,
individually and in his capacity as an employee
of the Town of Woodruff Police Department,
and TOWN OF WOODRUFF, WISCONSIN,

Defendants.

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A final pretrial conference was held by telephone on February 17, 2006 before United States District Judge Barbara B. Crabb. Plaintiff appeared by Richard Burnham. Defendant Kroeplin appeared by Charles Hoornstra, Assistant Attorney General for the State of Wisconsin and Mark Wendorff appeared for defendants Kreitlow and Town of Woodruff.

Counsel had one change to make in the proposed voir dire questions. Mr. Burnham wants the statement of the case to indicate that the request for information was a request for the plaintiff's name and address.

Turning to the process of jury selection, the plaintiff will exercise three strikes and defendants will exercise four strikes against a qualified panel of fifteen. The remaining eight jurors will constitute the trial jury. Defendants may exercise their four strikes together or each may exercise two strikes separately.

Counsel believe that they can complete the non-bifurcated case by the end of the day Thursday, February 23, 2006. No later than the end of the day, February 17, 2006, Mr. Burnham is to advise defense counsel of the witnesses he will be calling and the order in which he will be calling them on Monday. He has not decided whether he wishes a sequestration order. Neither of defendants' counsels requests one. Counsel are aware that they should have sufficient witnesses on hand to fill each trial day.

If counsel wish some tutoring on the new electronic equipment, they are to make arrangements with the clerk's office and arrive at the courthouse early enough on Tuesday, February 21, 2006 to obtain the instruction.

Counsel agreed that they would be able to stipulate on the exhibits they could use during their opening statements. They understand that after jury selection, the court will read introductory instructions to the jury, after which counsel will give their opening statements. After opening statements, I will read the stipulation of facts contained in docket number 188.

With respect to the motions in limine, defendant Kropelin's motion #1 is DENIED.

I will not instruct the jury on facts drawn from prior opinions.

Defendant's motion #2 to exclude the Wrasse memorandum dated December 28, 2005 is GRANTED. However, plaintiff's counsel may use the memorandum to refresh Wrasse's recollection if necessary.

Defendant's motion #3 is GRANTED. Wrasse cannot testify about his opinion of the purpose of Kroeplin's call for motor vehicle information.

Defendant's motion #4 to exclude Wrasse's January 11, 2005 memorandum is GRANTED. Plaintiff can ask defendant Kroeplin about his supervisor's questioning him about the incident and threatening him with reprimand but he cannot introduce the reprimand itself.

Defendant's motion #6 concerning the allegation that drugs were planted in Julie Erickson's car is DENIED in part. If plaintiff has a witness that can testify that he heard Andrew Cator discussing the idea of planting drugs in Erickson's car with defendant Kroeplin, plaintiff may introduce this evidence. He is also free to testify that he heard about a plot by Cator to put drugs in Julie Erickson's car because this is relevant to showing why he feared retaliation by Cator. Before plaintiff introduces any such testimony however he should front it with the court and get a ruling in advance.

Defendant's motions ##7, 8, 9 and 10 are GRANTED except that with respect to motion #9, Kroeplin can testify that he believed Parus had a hot temperament.

Plaintiff's motion #1 is GRANTED. Witnesses are not to testify that Julie Erickson gave birth to Cator's child "while she was married to someone else." The same ruling applies to any evidence that Julie Erickson was living with Cator at a time that she was married to another. Plaintiff's motions ## 3,4, 5 and 6 are GRANTED. Plaintiff's motion to exclude expression of opinion about the propriety or conduct of the individual defendants is DENIED as to officers' testimony about whether they would have done the same thing as defendants and as to Wrasse's testimony that he did not expect subordinates to list their informants and that he would not have been surprised that defendant Kroeplin was using informants who had criminal backgrounds.

At the conclusion of the conference, Mr. Hoornstra advised the court and opposing counsel that he had received messages that some of the witnesses had been receiving threats, that the husband of the one of the witnesses had been seriously assaulted on Saturday, February 11, 2006 and that defendant Kroeplin's mailbox has been vandalized. He stated that there was no suggestion that plaintiff was involved in the threats or the assault and that he has asked the Department of Justice to offer assistance to the Vilas County Sheriff's

Department, which is investigating the assault incident. He did not ask that any action be taken on this information.

Entered this 21st day of February, 2006.

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