

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

DANNY TURNER,

Defendant.

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FINAL PRETRIAL  
CONFERENCE ORDER

08-cr-22-bbc

On May 13, 2008, this court held the final pretrial conference. Defendant Danny Turner was present with his attorney, William Jones. The government was represented by Assistant United States Attorney David Reinhard.

Neither side had any proposed changes or objections to the court's draft voir dire questions or jury instructions. Copies of those drafts are attached to the court's May 12, 2008 order (dkt. 33).

Both sides raised *in limine* issues that will require decisions from the trial judge. First, the government provided notice of intent to offer two types of evidence, both of which Turner disputes. *See* Dkts. 29, 35, and 37. First, pursuant to F. R. Ev. 609, the government intends to impeach Turner at trial if he testifies by confronting him with evidence of his cocaine felony convictions in 2001 and 2004. *See* Brief in Support, Dkt. 30. Turner objects, claiming that the government only may alert the jury to the fact of two felony convictions without being more specific. *See* Dkt. 35. The government is not willing to concede the point, so the issue is framed for consideration at the June 2, 2008 final hearing.

Next, the government announced that it is substituting another chemist, Robert Block, for a previously-named chemist, Amanda Hanson, to prove the chemical nature of the alleged crack cocaine the government claims Turner sold its undercover officer in this case. Turner objects, claiming that this substitution came late (May 8 rather than the May 5 deadline) and that it would be hearsay for Block to testify about Hanson's report. The government may resist pursuant to F. R. Ev. 703 or it might just have Block retest the substances himself. This issue might require court attention at the hearing. The government moved to exclude evidence of possible penalties Turner faces if convicted (*see* dkt. 32). Turner does not dispute this motion.

Turner moved to exclude any testimony from police witnesses that his nickname is "Face." The government does not object to the motion as framed, but explains that its evidence will show that an informant provided a cell phone number for a person named "Face," the police called that number, asked for "Face," arranged for a crack purchase, then met with Turner and actually bought crack. So, to the extent the police now infer that Turner is "Face," the government wishes to be allowed to prove this up at trial. Turner's objection is a bit more nuanced: he does not want the police on the basis of this chain of circumstances to claim that they *know* that Turner *is* "Face." It may be that the parties smooth out their differences during trial prep; if not, this issue might require court attention at the final hearing.

Turner has moved to exclude telephone records the government has obtained for the cell phone assigned to the telephone number that the undercover officer called to talk to

“Face.” Turner is unhappy that the government subpoenaed only the records for the three days on which sales occurred, rather than a longer time period; Turner also is concerned that the government might attempt to use the telephone company’s records custodian as some sort of an expert witness. *See* Dkt. 36. The government replies that it does not intend to sneak in expert testimony and that it is willing to work with Turner quickly to obtain additional records for this telephone. It is possible the parties will work out their differences; if not, the issue is framed for resolution at the final hearing. The parties had no other matters to bring to the court’s attention.

The parties are predicting no more than a two-day trial and they predict that one alternate juror will suffice. Attorney Jones is aware of his obligation to obtain street clothes for Turner. Both sides are aware they must present their evidence using the court’s ELMO. The parties had no other housekeeping matters to bring to the court’s attention.

Entered this 13<sup>th</sup> day of May, 2008.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge