

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

MICHAEL BOGDONAS,

Plaintiff,

v.

ROBERT MUSEUS, in his official capacity
as Town Administrator and in his
individual capacity, JOHN WILSON, in his
official capacity as Chief of Police and in his
individual capacity, TOWN OF BELOIT,
a municipal corporation, ALAN LEVY,
and ONE OR MORE JOHN DOES,

Defendants.

ORDER

10-cv-618-bbc

This case is before the court on defendant John Wilson's motion to substitute Miguel Ruiz as his counsel in place of Michael Cieslewicz. Plaintiff objects to the request, asserting that the substitution is improper because Ruiz is likely to be called as a witness. The only reasons plaintiff gives for this assertion is that Ruiz told two potential witnesses that they are honest and, in his opinion, gave honest testimony when they testified against defendant John Wilson in a prior proceeding before another judge. How this would make Ruiz a potential witness remains unexplained. Plaintiff also says in conclusory fashion that Ruiz's

conversations with witnesses “reportedly concern factual matters of significance in this and other pending cases,” Plt.’s Br., dkt. #36 at 1, without specifying what those factual matters might be. In the absence of any details about the conversations, I will ignore this claim in assessing the objection to the substitution of counsel.

Even if Ruiz were not to act as counsel for defendant Wilson, I would not allow plaintiff to call him as a witness at trial to give his impression of the honesty of witnesses. His impression is irrelevant; it is only the jury’s impression that matters.

Defendant Wilson has asked for a protective order to prevent plaintiff from trying to call Ruiz as a witness at trial. None is needed. It should be evident that I would not allow him to be called. However, I will direct plaintiff not to try to depose Ruiz or to obtain any discovery from him or from anyone else on this subject.

In the absence of any showing that plaintiff’s counsel has any ground for calling Ruiz as a witness at trial, defendant Wilson’s request for a substitution of counsel will be granted, as will his request for fees for this baseless motion. He may have an opportunity to submit a list of the fees he incurred; plaintiff will have an opportunity to object to the amount of fees sought but not to the grant of an award.

ORDER

IT IS ORDERED that defendant John Wilson’s request to substitute Miguel Ruiz as

counsel for Michael Cieslewicz is GRANTED. FURTHER, IT IS ORDERED that plaintiff is not to try to depose defendant's counsel, Miguel Ruiz, or to obtain any discovery from him or from anyone else on the subject of his conversations with witnesses in prior proceedings against defendant and that defendant Wilson may have until July 15, 2011 in which to submit an itemized fee request. Plaintiff may have until July 29, 2011 in which to file any objections to the amount of the request.

Entered this 28th day of June, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge