

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

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VICTOR VASQUEZ,

Plaintiff,

v.

LT. DANIEL BRAEMER

Defendant.

FINAL PRETRIAL  
CONFERENCE ORDER

08-cv-597-slc

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On June 24, 2010, this court held a telephonic final pretrial conference. Both sides were represented by counsel.

Prior to the conference the court had distributed draft voir dire questions, jury instructions and a verdict form to the parties. At the conference the court finalized the voir dire and the preliminary jury instructions after hearing from both sides. The parties provided input on the post-trial jury instructions and the verdict form; we will revisit both documents at the close of the evidence and finalize them.

In discussion with the parties, the court ruled on the parties' motions in limine. As discussed at length at the hearing, some of the motions are not susceptible to decision pretrial but must be considered in light of the specific questions the attorneys put to specific witnesses. Even so, the court provided its guidelines and expectations: the events salient to the jury's consideration and resolution of plaintiff's claim occurred during a brief altercation between plaintiff, defendant and other correctional officers. Whatever an event witness did, saw or heard during the confrontation is admissible. Although the jury will have to make credibility determinations when deciding what happened, pursuant to F.Rs. Ev. 403, 404(a), 608(b) and 611(a), the court will not allow either side to attempt tangential or marginal impeachment of

the witnesses. The court expects both sides to play it straight, and if in doubt, to seek clarification from the court before raising a questionable topic with a witness. Particularly with regard to Rule 608(b) impeachment, an attorney had better have a concrete two-step proffer for the court before broaching specific incidents of conduct with a witness.

Based on this discussion and the parties' pre-conference submissions, the court granted plaintiff's motions in limine Nos. 1 and 3, and granted in part/denied in part Nos. 2 and 4-6. The court granted defendant's motion in limine No. 2, denied No. 1 as unnecessary, denied No.4, and granted in part/denied in part Nos. 3 and 5-7.

The court will hold a final hearing with the attorneys on June 28, 2010 at 8:30. We will seat a jury of seven. Each side is limited to 25 minutes for its opening statement. The parties shall have enough witnesses available to fill each trial day, with the expectation that this case will be presented to the jury for deliberation and verdict not later than Wednesday afternoon, June 30, 2010.

Entered this 25<sup>th</sup> day of June, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge