

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

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UNITED STATES OF AMERICA,

Plaintiff,

ORDER

v.

08-cr-122-bbc

WILLIAM L. DINGA,

Defendant.  
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A final pretrial conference was held in this case on April 16, 2009 before U.S. District Judge Barbara B. Crabb. The government appeared by Assistant United States Attorney Peter Jarosz. Defendant was present in person and by counsel David Mandell.

The first matter for discussion was the government's newly-proposed voir dire question. Defendant opposed it in its original form, but agreed to a modification that reads as follows:

You will hear evidence that law enforcement officers employed trickery and deceit during their interview of the defendant. Do you understand that, within bounds, law enforcement officers may use such techniques when they are interviewing a suspect or working undercover? Do any of you believe that it is wrong for the government to use such techniques? If so, would your opinion make it difficult for you to be impartial in this case?

The government also proposed three additional jury instructions. The first one is not opposed by defendant and will be given. Defendant opposed the second and it will not be given. The government is free to argue to the jury that the government needs to prove only the elements of the offense, which do not include a showing of the identity of the true purchasers or production of the firearms at issue. Defendant does not oppose the government's third proposed instruction.

Defendant had asked for an instruction to the jury in the verdict form, telling the jurors that if they find against the government on counts 1, 2 and 3, they must find defendant not guilty on counts 4 and 5. The motion is denied. Counts 4 and 5 include an element independent of the elements at stake in counts 1, 2 and 3. Therefore, jurors would not be answering the same question with respect to defendant in counts 4 and 5 as they would be in counts 1, 2 and 3.

The government moved in limine for an order barring defense counsel from eliciting testimony from persons other than defendant about alleged harassment of African-Americans by law enforcement officers in the Wisconsin Rapids area. The motion will be granted in part and denied in part. Defendant may testify about his personal experiences with law enforcement officers. In addition, he may call witnesses who were with him at times when he was stopped for no asserted reason at all. Those witnesses may testify about what was said to defendant by law enforcement officers. They may not testify about what they

believed or thought about the traffic stop and the purpose for it. In addition, defendant may call his former coach and ask him whether defendant complained to him about being harassed by the law enforcement officers in Wisconsin Rapids.

### Motions in Limine

Defendant's motion in limine to exclude any evidence relating to a forged check or a missing checkbook belonging to Vanessa Dockstader is granted. His motion to exclude evidence relating to money taken from a purse found at the Finish Line bar is denied. His motion to exclude evidence relating to his applications and potential scholarships to play basketball at various colleges is granted. His motion for an order excluding any evidence offered by his former coach at Mid-State Technical College is denied, but the government is limited to asking the coach whether he had formed any opinion about defendant's truthfulness and veracity and, if so, what that opinion was. Defendant's motions in limine 5, 6 and 7 are not opposed by the government and therefore are granted. Defendant's motion to allow into evidence his offer to take a polygraph test is denied because I am not persuaded that defendant's alleged offer to take a polygraph test was his own idea and sincere or whether it was simply a statement made to save face during questioning by law enforcement officers. In any event, I believe that the accuracy and validity of polygraph tests are so questionable that defendant's offer to take one is of little probative value.

The government wants to offer evidence of defendant's purchase of guns and of an empty magazine. He may do so. It has no evidence that defendant purchased any ammunition. Defendant objects to the government's offering into evidence any photographs of guns, contending that they would be unduly prejudicial. The objection is denied and the government will be allowed to introduce the photographs. The government believes doing so will be helpful to the jury. Showing that defendant bought multiple guns of very similar styles tends to show that his purchase of these guns was not for himself.

Defendant noted that the government has not named any expert witnesses. He asked the court to prohibit the government from asking any of its witnesses questions that would call for expert testimony. The motion is granted. Although Agent Salerno can say that he did not believe the defendant, he cannot say that he has an opinion about the truthfulness of defendant or testify about any aspect of the guns that would not be known to lay persons.

The jury will consist of 12 regular jurors and one alternate. The witnesses will be sequestered at trial, except for Agent Salerno who is the case agent.

Entered this 22d day of April, 2009.

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