

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

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UNITED STATES OF AMERICA,

Plaintiff,

v.

WILLIAM MERCER,

Defendant.

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ORDER

10-po-8-slc

In a July 30, 2010 order, this court advised defendant William Mercer that it would allow him to put in at the September 16, 2010 bench trial any evidence showing that he was intentionally provoked into disorderly conduct, or impeaching the credibility of the VA's witnesses to his alleged disorderly conduct, but the court will not admit into evidence facts relating to Mr. Mercer's more general suspicions of a conspiracy to deny him treatment and to prevent him from interacting with VA staff. I advised Mr. Mercer that he could seek to subpoena any witnesses who were relevant to his defense but that the court would quash subpoenas for witnesses who clearly had no testimony relevant to the issue that actually will be tried in this case.

After that, the court never heard directly from Mr. Mercer, but the government forwarded a letter it had received from Mr. Mercer addressed to the court, in which Mr. Mercer advised that he wanted the court to bring to trial the VA's chief of staff Dr. Houlahan, Dr. Breary in the physical therapy department, patient pre Debra Moraine, Ruth Benzing, and "a copy of the order that was sent to all hospital staff by Dr. Houlahan." *See* attachment to dkt. 10.

The problem with this request is that Mr. Mercer made no attempt to explain how these witnesses were relevant to the actual charge of disorderly conduct brought against him. If the order to staff exists, the government must produce it by bringing it to trial, so that the event witnesses can be questioned whether they ever saw it. And Mr. Mercer can question the event witnesses about whether they received any other orders or directions from Dr. Houlihan or others regarding Mr. Mercer. But other than that, the court cannot discern that any of Mr. Mercer's requested witnesses are relevant to the issue to be tried. Therefore, it has not issued subpoenas for them to appear at trial.

Entered this 9<sup>th</sup> day of September 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER  
Magistrate Judge