

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

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CARL BARRETT,

Plaintiff,

FINAL PRETRIAL CONFERENCE  
ORDER

12-cv-24-bbc

v.

LAVERN WALLACE, SHAWN GALLINGER,  
STACY HOEM and WILLIAM BROWN,

Defendants.  
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A final pretrial conference was held in this case on October 1, 2013, before United States District Judge Barbara B. Crabb. Plaintiff appeared on his own behalf. Defendants appeared by Brandon Flugaur and Chad Gendreau, Assistant Attorneys General for the State of Wisconsin.

Plaintiff has raised the following three claims:

- (1) Defendant William Brown used excessive force against plaintiff on September 21, 2010 by firing a second round of pepper spray at plaintiff;
- (2) Defendants Stacey Hoem and Shawn Gallinger failed to protect plaintiff on September 21, 2010 by failing to do anything to stop Brown from firing the round of pepper spray at plaintiff; and

(3) Defendants Lavern Wallace and Shawn Gallinger failed to protect plaintiff from harming himself on October 4, 2010.

The parties predicted that the case would take 1-2 days to try. They understand that trial days will begin at 9:00 and will run until 5:30, with at least an hour for lunch, a short break in the morning and another in the afternoon.

The eight-member jury was selected on Monday, September 30, 2013.

The parties agreed that with the exception of experts, all witnesses would be sequestered.

Plaintiff and defendants' counsel were reminded to use the microphones at all times and address the bench with all objections.

The parties discussed the form of the verdict and the instructions. The verdict was corrected to show that the jury need not answer verdict Question No. 3 if it answers "No" to Question No. 1. Final decisions on the instructions and form of verdict will be made at the instruction conference once all the evidence has been presented.

In response to a request from the Marshals Service about restraints, the parties said they preferred the use of a stun belt, which would not be visible to the jury.

The following rulings were made on the parties' motions in limine.

Plaintiff's Motions

A. Plaintiff's Motions in Limine, dkt. #116 & 117

1. Exclude evidence concerning plaintiff's criminal offenses, disciplinary record and health/psychological/other staff reports unless "specifically related to the particular events at issue."

The motion is denied as to plaintiff's criminal record, so long as defendants confine their discussion of this issue as prescribed in Fed. R. Evid. 609. The motion is granted in all other respects. This ruling resolves defendants' motion to put in evidence of plaintiff's prior criminal offenses and relevant disciplinary and physical and mental health records.

Defendants' Motions

1. Prevent plaintiff from presenting testimony regarding actions of defendants beyond September 21, 2010 and October 4, 2010 without proper foundation and relevance
2. Prevent plaintiff from presenting any testimony or arguments related to issues already dismissed at summary judgment

Both motions are granted.

Entered this 1st day of October, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge