

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
HONORABLE MARCIA S. KRIEGER**

Courtroom Deputy: Patricia Glover
Court Reporter: Paul Zuckerman

Date: July 28, 2009

Civil Action No. 08-cv-00245-MSK

Parties:

Counsel Appearing:

BENJAMIN DAVIS,

Plaintiff,

Benjamin Davis, *pro se*

v.

WILFREDO ANDUJAR, Denver Deputy Sheriff, and
DONALD TRAVIS, Denver Deputy Sheriff,

Thomas Bigler

Defendants.

COURTROOM MINUTES

HEARING: Final Pretrial Conference.

3:57 p.m. Court in session.

Plaintiff is present by telephone. The individual defendants are present and Mel Thompson, Deputy Manager of Safety is present. Counsel for defendant is as listed above.

The Court addresses defendant's Motion for Partial Summary Judgment (**Doc. #34**).

No further argument.

ORDER: Defendant's Motion for Partial Summary Judgment (**Doc. #34**) is **GRANTED** as to both defendants on the claims asserting conspiracies. All claims against defendant Travis are deemed resolved. The case will proceed to trial on the single claim against Defendant Andujar only, for violation of the Eighth Amendment by use of excessive physical force.

The Court addresses the Final Pretrial Order in conjunction with the summary judgment ruling. The parties agree to strike the claims in the proposed pretrial order disposed of t with the summary judgment ruling.

The Court reviews witness and exhibit lists, time necessary for trial and anticipated motions..

ORDER: Motions in limine will be filed by **August 27, 2009**; responses will be filed by **September 16, 2009**. **No replies will be filed.**

ORDER: The Final Pretrial Order (**Doc. #68**) is **APPROVED**, subject to the Court's ruling on defendant's Motion for Summary Judgment. Accordingly, claims 1, 3 and 4 are **STRICKEN**. This document will govern the case from this point forward.

The Court addresses defendant's request that he and a witness be present for trial.

ORDER: Defendant will re-file his motions: 1) requesting that he and a witness be present at trial; 2) request to appear in street clothes at the trial and 3) for service of trial subpoenas. All of these motions will be re-filed by **August 27, 2009**; defendants will file response(s) by **September 16, 2009**. No replies will be filed.

The Court addresses questions from defendant regarding the jury instructions and explains the voir dire process to the parties.

The Court addresses setting the matter for trial.

ORDER: Three (3) day jury trial is set to commence on **February 8, 2010 at 1:00 p.m.**, in Courtroom A901, 901 19th Street. The parties will each have 7.5 hours of trial time to use however they wish (opening statements, closing argument, evidence, etc.). The time will be tracked on the chess clock by the Courtroom Deputy.

4:51 p.m. Court in recess.

Total Time: 54 minutes.

Hearing concluded.