

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Action No. 13-cv-02411-REB-CBS

KIRBY MARTENSEN,

Plaintiff,

v.

WILLIAM KOCH, and
DOES 1-25,

Defendants.

**ORDER DENYING WITHOUT PREJUDICE PLAINTIFF KIRBY MARTENSEN'S
MOTION IN LIMINE TO PRECLUDE DEFENDANT WILLIAM KOCH
FROM REFERRING TO DISTRICT ATTORNEY'S DECISION NOT TO
PROSECUTE DEFENDANT FOR THE CRIME OF FALSE IMPRISONMENT**

Blackburn, J.

The matter is before me is **Plaintiff Kirby Martensen's Motion In Limine To Preclude Defendant William Koch form Referring to District Attorney's Decision Not To Prosecute Defendant for the Crime of False Imprisonment** [#224],¹ filed August 29, 2014. I deny the motion, but without prejudice.

Plaintiff argues that defendant should be precluded from alluding to or introducing evidence of the Gunnison County District Attorney's Office decision not to bring criminal false imprisonment charges against defendant. Plaintiff claims such evidence is irrelevant and unduly prejudicial, and that it constitutes hearsay. He thus requests that it be excluded *in limine* pursuant to Fed. R. Evid. 401, 403, and 802.

¹ "[#224]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

The issues plaintiff raises in his motion *in limine* are evidence-driven and cannot be resolved until evidence is presented at trial.² Obviously, no trial evidence has been presented, and the manner and context in which this evidence may be brought forward therefore remains uncertain. The relevance of the evidence in question; its potential to cause unfair prejudice or confusion, to mislead the jury, or to waste time; and whether it will be offered for a hearsay purpose *vel non*, are matters that cannot be determined until the evidentiary landscape becomes clear at trial.

THEREFORE, IT IS ORDERED that **Plaintiff Kirby Martensen's Motion In Limine To Preclude Defendant William Koch from Referring to District Attorney's Decision Not To Prosecute Defendant for the Crime of False Imprisonment [#224]**, filed August 29, 2014, is **DENIED** without prejudice.

Dated January 21, 2015, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge

² For these very reasons I specifically discourage the filing of such motions in my Civil Practice Standards. **See** REB Civ. Practice Standard IV.E.1.