

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

VICTOR VASQUEZ,

Plaintiff,

v.

MEMORANDUM
Case No. 08-cv-597-slc

LT. DANIEL BRAEMER and
MICHAEL BIERSAK,

Defendants.

Plaintiff is presently in custody at the Waupun Correctional Institution.

A court may issue a writ of habeas corpus commanding the presence of an incarcerated plaintiff at court proceedings when the plaintiff's presence is necessary for a full and fair hearing of the claim. *Ford v. Carballo*, 577 F.2d 404 (7th Cir. 1978); *In re Warden of Wisconsin State Prison*, 541 F.2d 177 (7th Cir. 1976). While a prisoner has no fundamental interest "in being present at the trial of a civil action to which he is a party, sufficient to outweigh, as a matter of course, the interest of the state in avoiding expense," a trial court must exercise its discretion to determine whether in any particular case the prisoner's interest in being present in court outweighed the state's interests in avoiding the risks and expense of transporting the prisoner. *Id.* at 179. *See also Ford v. Carballo, supra; Stone v. Morris*, 546 F.2d 730 (7th Cir. 1976).

Therefore, on the court's motion, the Clerk of Court is directed to issue a writ of habeas corpus commanding plaintiff's presence at the United States District Court for the

Western District of Wisconsin commencing on June 28, 2010 at 9:00 a.m. for the purpose of Jury Selection and Trial.

Entered this 20th day of May, 2010.

BY THE COURT:

/s/

STEPHEN L. CROCKER
Magistrate Judge