

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

JONAH LONG,)	
)	
Plaintiff,)	
)	
v.)	Case No. 1:13-cv-1619-JMS-DKL
)	
MATTHEW KINKADE, D. YOUNG, J. SORIA,)	
J. INGRAM, and R. GRABER,)	
)	
Defendants.)	

PLAINTIFF’S MOTIONS IN LIMINE

Plaintiff, Jonah Long, by counsel and pursuant to Federal Rule of Evidence 103, hereby moves the Court for an Order in Limine permitting Long to attend trial wearing business attire instead of a prison uniform as requested in paragraph 1, below. Long further moves the Court for an Order in Limine prohibiting Defendants, their attorneys, agents, representatives, and witnesses from either directly or indirectly mentioning; suggesting; referring to by way of interrogation, argument, or comment; or displaying to the jury any evidence, documents, or materials specified in paragraphs 2-10, below, during the trial of this case.

1. Long requests permission by order of the Court to attend the trial wearing normal street clothes rather than a prison uniform. The contrast between a litigant’s wearing prison garb and his opponents’ wearing law enforcement uniforms or business attire is likely to influence the jury against the prisoner, and has long been recognized as being highly prejudicial. *See, e.g., Holbrook v. Flynn*, 475 U.S. 560, 568–69 (1986); *Estelle v. Williams*, 425 U.S. 501, 504–05 (1976); *Illinois v. Allen*, 397 U.S. 337, 344 (1970); *Maus v. Baker*, 747 F.3d 926, 927 (7th Cir. 2014); *Stephenson v. Wilson*, 619 F.3d 664, 668–69 (7th Cir. 2010). The Seventh Circuit has held that a trial court’s error in requiring a pretrial detainee to wear prison clothing in court at a

trial on civil rights claims under Section 1983 against county jail personnel, while allowing defendants to wear their guard uniforms, was not harmless error, warranting remand for new trial. *Maus*, 747 F.3d at 928.

2. Any argument, evidence, testimony, reports, or other documents referring in any way to any of Long's criminal convictions or revocation of bond including, without limitation: In 1998, Long was convicted of theft. In May 2000, Long pled guilty to theft. Long was convicted in June 2003 of driving while suspended with prior. In January 2006, Long was convicted of driving while license suspended. In January 2008, Long was convicted of two counts of driving while suspended and false/fictitious registration. Long pled guilty in November 2008 to one count of illegal drug dealing. In August 2009, Long pled guilty to aiding arson. In October 2012, the Marion Superior Court, Criminal Division, granted the State's Motion to Revoke Long's Bond. In July 2013, Long was convicted of one count of illegal drug dealing and one count of resisting arrest. Long pled guilty in August 2014 to one count of illegal drug dealing. These convictions are inadmissible as they are irrelevant in this illegal search and seizure and false arrest case, and evidence concerning them would have a prejudicial effect that substantially outweighs its probative value. Fed. R. Evid. 401, 402, 403. The elements of those crimes do not involve acts of dishonesty, are irrelevant, and do not have probative value regarding Long's character for truthfulness. Fed. R. Evid. 608, 609.

3. Any argument, evidence, testimony, reports, or other documents referring in any way to Long's juvenile record, which is irrelevant, and any such evidence would have a prejudicial effect that substantially outweighs its probative value. Fed. R. Evid. 401, 402, 403.

4. Any argument, evidence, testimony, reports, or other documents referring in any way to the fact that Long is currently incarcerated or was incarcerated, with the exception that the parties may present evidence that Long was arrested and processed on July 25, 2012, the date

of the facts at issue in this case. Evidence regarding Long's current or former incarceration is inadmissible as it is irrelevant in this illegal search and seizure and false arrest case, and such evidence would have a prejudicial effect that substantially outweighs its probative value. Fed. R. Evid. 401, 402, 403. Further, because the elements of the crimes for which he is and was incarcerated do not involve acts of dishonesty, they are irrelevant and do not have probative value regarding Long's character for truthfulness. Fed. R. Evid. 608, 609.

5. Any argument, evidence, testimony, reports, or other documents referring in any way to Department of Corrections conduct disciplinary charges against Long. Testimony concerning instances of alleged misconduct is irrelevant and would have a prejudicial effect that substantially outweighs its probative value. Fed. R. Evid. 401, 402, 403. Disciplinary charges regarding Long have no bearing on his character for truthfulness, Fed. R. Evid. 408, and would only be used to suggest that he has engaged in "bad" behavior during his imprisonment, which is not permissible under Fed. R. Evid. 404.

6. Any argument, evidence, testimony, reports, or other documents referring in any way or suggesting that Long is or was a drug dealer, including references to methamphetamine, drugs, drug dealing, narcotics, paraphernalia, the safe located in the house, the cameras and video equipment in and around the house, anything recovered during the search at issue in this case, the results of the search at issue in this case, or any related items, conduct, or terms. Long will stipulate that Defendant Matthew Kinkade arrested Long as a result of items found during the search of Long's home. Long will further stipulate that if the jury determines that the search at issue was Constitutional, then Defendant Matthew Kinkade's arrest of Long was likewise Constitutional, as well as the converse (if the search was unconstitutional, so was the arrest). Consequently, any reference to such items, conduct, or terms is irrelevant and would have a prejudicial effect that substantially outweighs its probative value. Fed. R. Evid. 401, 402, 403.

Further, all evidence recovered during the search conducted on July 25, 2012 was suppressed and all charges stemming from the July 25, 2012 invasion of Long's home were dismissed by the Marion Superior Court, so discussion of the search and the factual allegations supporting those charges would have a prejudicial effect that substantially outweighs its probative value. *Id.* And allegations that Long was a drug dealer or in possession of illegal drugs are irrelevant and do not have probative value regarding Long's character for truthfulness. Fed. R. Evid. 408, 608, 609.

7. Any argument, evidence, testimony, reports, or other documents referring in any way to the events that preceded Defendants' entry into Long's home, including the entry itself. This Court previously ruled that Defendants are not liable to Long as a result of their entry into Long's home.¹ Consequently, there are two issues remaining in this case: (1) whether Long lived at 2343 Shelby Street, Indianapolis, IN; and (2) whether Long consented to the search of 2343 Shelby Street, Indianapolis, IN on July 25, 2012. Any reference to Defendants' entry into the home or the events leading up to the entry is irrelevant and would have a prejudicial effect that substantially outweighs its probative value. Fed. R. Evid. 401, 402, 403.

8. Any argument, evidence, testimony, reports, or other documents referring in any way to the Transcript of Evidence of the Review of Counsel Hearing held on February 26, 2013, before the Honorable Peggy Ryan/Mick Jensen, Magistrate, in the Superior Court of Marion County, Criminal Division, Room 20, under Cause No. 49G20-1207-FA-051024. The statements made by Long during the February 26, 2013 hearing were made while Long was represented, but without assistance of counsel, who was not present for the majority of the hearing. Use of these statements would violate Long's right to counsel, guaranteed by the Sixth Amendment to the United States Constitution.

¹ Long reserves his rights to appeal this ruling, and by making this statement does not concede that the Court's ruling was correct.

9. Any argument, evidence, testimony, reports, or other documents referring in any way to Defendant's ability to pay any judgment in this case. Such testimony is irrelevant and would unduly complicate and confuse the issues in this case. Fed. R. Evid. 401, 402, 403.

10. Any argument, evidence, testimony, reports, or other documents referring in any way to any negative ramifications that an adverse judgment might have on Defendants' career. Such evidence is irrelevant to whether Defendants violated Long's Constitutional rights, and the probative value of any such evidence is substantially outweighed by the prejudice to Long from its admission. Fed. R. Evid. 401, 402, 403.

WHEREFORE, Plaintiff respectfully requests that the Court grant Plaintiff's Motions in Limine Nos. 1-10, and for all other appropriate relief.

Respectfully submitted,

QUARLES & BRADY LLP

By: /s/ Jacob V. Bradley

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CERTIFICATE OF SERVICE

I hereby certify that on March 18, 2016, a copy of the foregoing was filed electronically. Service of this filing will be made on all ECF-registered counsel by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

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