

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION



MINUTE SHEET
OF COURT PROCEEDINGS

Date: 1/6/2023 Type of Hearing: Pretrial Conference
Judge: Marc T. Treadwell Court Reporter: Darlene Fuller
Courtroom Deputy: Kim Tavalero Law Clerk: Ben Roth
Courtroom: A

Case Number: 5:20-cv-453 (MTT)

Ashley Diamond Counsel: A. Chinyere Ezie
Beth Littrell
Scott McCoy
Bruce Hamilton
Emma Douglas
CJ Sandley
Charles Coleman

v.

Timothy Ward, et al. Counsel: Roger Chalmers

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Court time for JS10/MJSTAR: 3 hours / 58 minutes

9:57 am Called to order. Identification of parties. Preliminary remarks by the Court. Discussion regarding the claim against Defendant Lewis.
10:00 am The Court addressed the parties regarding plaintiff's motion in limine (Doc. 190). Discussion regarding cell phone evidence.
10:09 am The motion in limine (Docs. 190 / 190-1) is ruled on as follows:

- Part A (exclude any evidence of anything that happened after the filing of the Amended Complaint) – DENIED.
- Part B (1) (reference to sexual or romantic activity) – Discussion regarding Rape Shield, evidence of sexual activity. Discussion regarding plaintiff's behavior and allegations of sexual assault. As

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to Part B (1), the Court reserves ruling. There will be no mention of sexual activity until such time as the Court has had an opportunity to consider that issue in the light of evidence adduced during the trial.

- Part B (2) (use of male pronouns) – DENIED – it is common courtesy to refer to plaintiff using proper pronouns.
- Part B (3) (reference to prior criminal convictions of plaintiff and incarcerated witnesses) – GRANTED – can use the conviction but not make reference to the specifics of the act that resulted in the conviction.
- Part B (4) (reference to plaintiff's alleged recreational drug use) – the Court reserves ruling.
- Part B (5) (reference to plaintiff's disciplinary reports ("DR")) – As a general proposition, there will be no mention of DRs and no DRs will be offered into evidence. It's the underlying conduct that may or may not be admissible.
- Part B (6) (reference to amount of plaintiff's prior settlement against GDC and her fundraising efforts) – discussion regarding prior settlement and fundraising. Discussion regarding care plaintiff needed in prison. The Court stated prior treatment or lack of treatment is generally admissible. The Court ruled plaintiff has to open the door to admission of evidence that she had means to have that specific treatment. As to plaintiff's fundraising, the Court ruled the fundraising is relevant, goes to credibility.
- Part B (7) (reference to the amount of money plaintiff spent on gender dysphoria treatment prior to incarceration) – covered by earlier ruling. The relevant health history is admissible.
- Part B (8) (reference to illegality of plaintiff's alleged cell phone possession in prison and phone's contents) – the Court ruled there is no categorical exclusion – the parties were instructed some allegations/evidence can't be mentioned until a better record is established.
- Part B (9) (reference to voluntary dismissal of certain defendants and the grant of summary judgment to Arneika Smith in related case) – GRANTED – there is no need for the jury to know about the dismissed defendants.

11:10 am Discussion regarding proposed pretrial order. Discussion regarding witnesses, joint stipulation as to undisputed facts, video evidence and Jury Evidence Recording System ("JERS"). Discussion regarding the authentication of or objection to exhibits. The parties were instructed to confer as to the authentication of exhibits.

11:44 am Recessed.

11:59 am Reconvened. Discussion regarding jury selection, questionnaire, voir dire, strike sheet, witnesses, request to charge, verdict form and exhibits.

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- Discussion regarding deposition designations and objections.
- 1:57 pm Discussion regarding plaintiff's spoliation motion (Doc. 165) – DENIED without prejudice – the Court cannot find as a matter of law that spoliation occurred but depending on the evidence presented at trial the motion may be renewed. Discussion regarding a spoliation instruction. If the evidence shows spoliation by anybody the Court will consider whether an instruction is appropriate.
- 1:59 pm Mr. McCoy addressed the Court regarding orders to produce incarcerated witnesses for trial. The Court instructed plaintiff's counsel to send an email to Chambers with the names and dates for production. Discussion regarding the possible need for a Fifth Amendment instruction.
- 2:05 pm Discussion regarding length of trial (5-7 days) and the use of demonstratives during opening statements. Further discussion regarding convictions and specific offenses. The parties were instructed to brief the issue by Wednesday, January 11.
- 2:10 pm Adjourned.