

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

MARK SIMONETTI

v.

CITY OF BRIDGEPORT,
CHIEF WILBUR CHAPMAN,
CAPTAIN LEONARD SAMATULSKI,
LIEUTENANT JOHN BRENNER, and
DETECTIVE PAUL ORTIZ

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RULING ON IN CAMERA REVIEW OF DOCUMENTS AND SCHEDULING ORDER

Defendants' Motion for Protective Order [Doc. #43]

A conference was held on November 30, 2005, as a followup to the November 7th discovery conference. Pending is defendants' Motion for Protective Order, filed pursuant to the Court's November 22, 2005 ruling [Doc. #43]. Defendants provided the Court with the documents under seal for in camera review.

After careful review, the Court rules as follows.

1. Personnel Files regarding Disciplinary History

Defendants state that the files for Lt. John Brenner, Detective Harold Dimbo, Captain Leonard Samatulski and non-party Detective Juan Gonzalez were reviewed and that the files contain no record of discipline within the last ten (10) years.

Defendants will make this representation in writing to plaintiff within ten (10) days.

Sargent Paul Ortiz

Defendants' motion is **GRANTED** as to Sgt. Ortiz' file, as the

file contains nothing even arguably relevant to plaintiff's claims.

Detective Edwin Perez

Defendants' motion is **GRANTED** in part and **DENIED** in part as to non-party Detective Perez's file. Defendants will provide a copy of the Arbitration Award dated March 12, 1998 (two pages), and a copy of the Board of Police Commissioners Board Action dated December 5, 1989 (two pages). The Arbitration Award is within the scope of the ten year period designated by the Court. However, the Police Commissioners' board action is clearly outside that ten year period, and thus, any requests for further information for this non-party will be carefully considered by the Court.

Former Chief Wilbur Chapman

Defendants state that the Bridgeport Police Department does not maintain a "personnel file" of former Chief Wilbur Chapman as is done with civil service positions within the department. No record of any discipline imposed on former Chief Chapman was found through a review of existing documents within the Police Department, with the exception of documents identified below and identified from an investigation by the Office of Internal Affairs. Defendants will make this representation to plaintiff in writing within ten (10) days.

One in camera document records the Board of Police

Commissioners' recommendation on reappointment of the Chief of Police, dated January 19, 2005. Defendants' motion for protective order as to this document is **GRANTED** to the extent that it will be disclosed for attorneys' eyes only. Defendants will provide this document to counsel for plaintiff with ten (10) days. Plaintiff's counsel will seek the Court's approval prior to any further disclosure of this document.

2. Office of Internal Affairs Files

Defendants state that no record of OIA investigations were found within the last ten years for defendants Captain Samatulski, Det. Dimbo and Det. Perez. Defendants will provide this representation in writing to plaintiff.

After careful review, defendants' Motion for Protective Order is **GRANTED** as to defendants Brenner, Ortiz, Chapman¹ and non-party Gonzalez, as the file contains nothing even arguably relevant to plaintiff's claims, as the file contains nothing even arguably relevant to plaintiff's claims.

3. Psychiatric Records

Defendants state that "neither the personnel files nor the OIA files on these individuals contain any such documentation. While each officer who is hired by the Bridgeport Police Department will undergo a psychological evaluation, any such

¹The Internal Affairs file for former Chief Chapman was produced for in camera review on the day of the conference.

tests performed on these individuals would have been conducted more than ten years ago and would exist, if at all, in a hiring or civil service file. Due to the fact that each of these officers has been on the force greater than ten years, no search was conducted for these documents as they would fall outside the time period requested by the Court. While former Chief Chapman was hired less than ten years ago, he was not hired into the civil service and did not undergo a psychological test prior to his hiring." Defendants will provide this representation in writing to plaintiff within ten (10) days.

Defendants will contact the Court to arrange for the pick-up of the documents submitted for in camera review, within ten (10) days.

Scheduling Order

Discovery closed on September 30, 2005. Pending is plaintiff's Motion for Permission to take an additional deposition of Anthony Armeno, the acting Chief of Police for the City of Bridgeport. [Doc. #45]. Plaintiff argues that this Court's recent rulings on the motion to compel and the production of new documents compels an additional deposition of Chief Armeno. Plaintiff seeks a two (2) hour deposition of Chief Armeno who, he contends, "was actively involved in the investigation leading up to plaintiff's arrest, has information concerning 'special assignments' made by Wilbur Chapman during the time leading up to plaintiff's arrest, and was present on the day of

the incident that resulted in plaintiff's arrest." [Doc. #45 at 2]. After careful consideration, plaintiff's Motion for Permission to take Chief Armeno's deposition is **GRANTED** [Doc. #45]. The two-hour deposition will be taken within thirty (30) days.

Trial Documents

Plaintiff requests copies of all documents defendants intend to rely on at the time of trial. Defendants state that they have provided plaintiff with all the documents they intend to rely on at trial without limiting their right to offer rebuttal or impeachment evidence. Counsel are mindful of their on-going duty to supplement or correct their disclosures and/or responses to discovery as set forth in Fed. R. Civ. P. 26(e)(1)(2). Counsel are also aware of their duty under Fed. R. Civ. P. 26(a)(3)(A-C) to make pretrial disclosures at least thirty (30) days before trial. Accordingly, plaintiff may renew this request in the context of pretrial preparation after a decision is entered on summary judgment.

The parties are encouraged to contact the Court as issues arise in complying with this ruling and order, so a conference may be scheduled. Any requests for extension of the Court's deadlines must be made **in advance of the deadline.**

This is not a recommended ruling. This is a discovery ruling and order which is reviewable pursuant to the "clearly erroneous" statutory standard of review. 28 U.S.C. § 636 (b) (1) (A); Fed. R. Civ. P. 6(a), 6(e) and 72(a); and Rule 2 of the Local Rules for United States Magistrate Judges. As such, it is an order of the Court unless reversed or modified by the district judge upon motion timely made.

ENTERED at Bridgeport this 16th day of December 2005.

_____/s/_____
HOLLY B. FITZSIMMONS
UNITED STATES MAGISTRATE JUDGE