

IN THE CIRCUIT COURT, FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA, IN AND FOR BAY COUNTY

STATE OF FLORIDA,
Plaintiff.

vs.

CASE NOS.:

HENRY DICKENS
CHARLES ENFINGER

RAYMOND HAUCK

HENRY MCFADDEN, JR.
KRISTIN SCHMIDT
JOSEPH WALSH, II,
Defendants.

06-4016CFMA

06-4016CFMB

06-4016CFMD

06-4016CFMF

06-4016CFMG

06-4016CFMH

HAROLD BAZZEL
CLERK OF CIRCUIT COURT,
BAY COUNTY, FLORIDA

2007 AUG 23 P 4: 00

FILED

MOTION IN LIMINE RE:
EVIDENCE AND TESTIMONY DIRECTED
TO ISSUE OF "CORPORAL PUNISHMENT"

Pursuant to applicable law, the Defendants seek a pre-trial ruling regarding the admissibility of evidence and testimony directed to the issue of corporal punishment. As grounds therefor, Defendants would show:

1. Defendants anticipate that an issue at trial will be whether the defendants' engaged in corporal punishment during their interaction with the decedent, Martin Anderson.
2. The State has enlisted the assistance of a use-of-force expert, Steve Martin. Mr. Martin has opined that the defendants in this case were using force in order to compel Martin Anderson to complete a required 1.5 mile run at the boot camp. Mr. Martin characterized the actions of the defendants as de facto corporal punishment, which, in his opinion, "is illegal in American corrections."
3. Under Florida law, a parent, or one standing in loco parentis, may use corporal

punishment in disciplining a child. Raford v. State, 828 So.2d 1012 (Fla. 2002). Florida has long recognized a parental privilege with regard to disciplining a minor who is under the care, custody, and control of the adult. See, Kama v. State, 507 So.2d 154 (Fla. 1st DCA 1987).

4. An essential allegation against the Defendants in this case is that they were acting in the role of a “caregiver” through their employment at the Bay County Sheriff’s Boot Camp. By definition, a caregiver is the functional equivalent of a parent, and would be afforded the same parental privilege as a biological parent. The term statutorily includes persons employed at a boot camp. §39.01 (46), Fla. Stat. (2007).

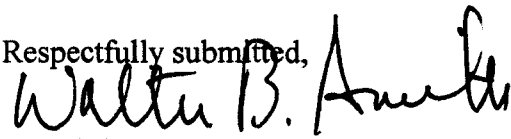
5. As a result, the Defendants in this case could lawfully use corporal punishment as a means of disciplining or correcting the behavior of the juvenile offenders who are placed within their care, custody, and control at the boot camp. It would be erroneous and misleading to suggest to the jury that corporal punishment is per se unlawful or inappropriate within a boot camp facility.

WHEREFORE, Defendant moves this Honorable Court to enter a pre-trial ruling excluding evidence and testimony suggesting that corporal punishment is legal.

I HEREBY CERTIFY that a copy of the foregoing has been furnished to Michael Sinacore, Assistant State Attorney, 800 E. Kennedy Blvd., Third Floor, Tampa, FL 33602; and to

the persons listed on the attached Additional Service List, by U. S. Mail this 23rd day of August, 2007.

Respectfully submitted,



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