

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

Powelson v. Sausalito Police Department

No. 23-cv-01360-EMC (SK) (N.D. Cal. Aug. 6, 2025) · No. 23-cv-01360-EMC (SK) · Decided August 6, 2025

SUMMARY

The court denied Plaintiff Robbie Powelson’s request to subpoena the Marin County District Attorney’s Office for records concerning Officer Nick White’s alleged inclusion on a Brady list. The court found the requested information unrelated to Powelson’s 42 U.S.C. § 1983 claims arising from a 2021 encampment incident and concluded that evidence of alleged prior wrongdoing could not be used to prove character under Federal Rule of Evidence 404(b).

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Sallie Kim
JURISDICTION	United States District Court for the Northern District of California
DECIDED	August 6, 2025
DOCKET	23-cv-01360-EMC (SK)
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiff moved for issuance of a subpoena to the Marin County District Attorney's Office seeking records concerning Officer Nick White's alleged inclusion on a Brady list. The court denied the request.
STANDARD OF REVIEW	The court assessed the subpoena under the relevance, proportionality, and scope limits applicable to civil discovery and considered the admissibility of the requested information under Federal Rule of Evidence 404(b).
PRECEDENTIAL VALUE	unpublished district court order; nonprecedential
PARTIES	Robbie Powelson v. Sausalito Police Department, Officer Nick White, other defendants

TOPICS

- discovery dispute
- relevance
- character evidence
- evidence
- section 1983

PRACTICE AREAS

civil procedure

civil rights

evidence

constitutional law

QUESTIONS PRESENTED

1. Whether Plaintiff was entitled to issuance of a subpoena seeking all records concerning Officer White's alleged Brady-list determination.
2. Whether alleged prior perjury in an unrelated criminal proceeding was discoverable or admissible to show that White would lie in the present civil action.
3. Whether the Brady and California discovery authorities cited by Plaintiff supported discovery of the requested records in a civil case.

HOLDINGS

1. Information concerning Officer White's alleged lies in an unrelated 2016 criminal proceeding was not relevant to whether he was lying in the present civil action and was not discoverable through the requested subpoena.
2. Brady v. Maryland and People v. Coyer, which concern criminal defendants' access to exculpatory or criminal-charge information, do not establish a right to the requested discovery in this civil § 1983 action.

KEY QUOTATIONS

“The scope of disclosure under Brady and Coyer is very different from the scope of discovery in civil cases.”
(at 3)

“However, Plaintiff cannot use information at trial from a previous unrelated disciplinary action involving White, if one exists, to show that White is lying on the stand in this case.” (at 2)

FACTUAL BACKGROUND

Plaintiff sought records from the Marin County District Attorney's Office concerning Officer Nick White's alleged inclusion on a Brady list based on alleged perjury in a 2016 criminal trial involving White's ex-girlfriend. Plaintiff claimed the records were relevant to White's credibility as a witness in this civil action. The underlying civil-rights claims arose from officers' removal of Plaintiff's belongings from an encampment on November 22, 2021, and the court found those events unrelated to the 2016 domestic-violence matter.

PROCEDURAL HISTORY

Powelson brought a civil-rights action under 42 U.S.C. § 1983 arising from the removal of his belongings from an encampment on November 22, 2021. During discovery, he sought a subpoena for records concerning an alleged 2016 perjury-related Brady determination involving Officer White. The court denied the subpoena as seeking information unrelated to the claims and inadmissible for the proposed credibility purpose.

DISPOSITION

other

CASES CITED

- Brady v. Maryland, 373 U.S. 821 (1963)
- People v. Coyer, 142 Cal. App. 3d 939 (1983)
- Kelly v. City of San Jose, 114 F.R.D. 653, 663-68 (N.D. Cal. 1987)
- Brownlee v. Burnes, 2024 WL 4957495, at *2-3 (E.D. Cal. Dec. 3, 2024)
- Mueller v. Walker, 124 F.R.D. 654, 658 (D. Or. 1989)

OPINION

Powelson v. Sausalito Police Department

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 ROBBIE POWELSON, Case No. 23-cv-01360-EMC (SK) 8 Plaintiff,

ORDER DENYING ISSUANCE OF

9 v. SUBPEONA

10 SAUSALITO POLICE DEPARTMENT, et

al., Regarding Docket No. 89 11 Defendants. 12 13 Plaintiff seeks to issue a subpoena to the Marin County District Attorney's Office for 14 information regarding Defendant Officer Nick White's alleged inclusion on a "Brady list" 15 identifying him as having credibility issues. Plaintiff claims that White's inclusion on the list 16 stems from White allegedly committing perjury in a criminal trial against his ex-girlfriend. 17 Plaintiff argues that this information is relevant to White's credibility as a witness in this action. 18 A. Background 19 Plaintiff obtained a letter, dated July 12, 2016, addressed to White, from the Marin County 20 District Attorney's Office. That letter states in pertinent part: 21 Our office is required by law to disclose to a defendant and/or his/her attorney of 22 record any information we have in our possession concerning a witness who is on probation and/or which may possibly fall within the scope of Brady v. Maryland 23 (1963) 373 U.S. 821, and/or People v. Coyer (1983) 142 Cal.App.3d 9392, and the provisions of [California] Penal Code Section 1054. 24 As we have previously discussed, the Marin County District Attorney's Office's 25 Brady Committee has met and made a determination that Mill Valley Police 26 Department report numbers 13-860 and 16-93 contain information that must be 27 provided in future cases in which you are a witness. . . . 1 (Dkt. No. 89 (Ex. A).) 2 California Penal Code section 1054 provides: 3 4 This chapter shall be interpreted to give effect to all of the following purposes: 5 (a) To promote the ascertainment of truth in trials by requiring timely pretrial discovery. 6 (b) To save court time by requiring that discovery be

conducted informally between and among the parties before judicial enforcement is requested. 7
(c) To save court time in trial and avoid the necessity for frequent interruptions and 8
postponements. (d) To protect victims and witnesses from danger, harassment, and undue delay of
9 the proceedings. (e) To provide that no discovery shall occur in criminal cases except as
provided by 10 this chapter, other express statutory provisions, or as mandated by the Constitution
of the United States. 11 12 Cal. Pen. Code § 1054. Plaintiff also attaches an article, originally
published on March 28, 2017, about a trial in 13 which White accused his ex-girlfriend of
misdemeanor corporal injury on a dating partner in 14 January 2016. (Dkt. No. 89 (Ex. B).) The
article states that the jury acquitted the defendant and 15 that at least one juror found that White
was not credible. (Id.) 16 B. Analysis 17 Defendants argue that Plaintiff's request is overbroad and
disproportionate to the needs of 18 the case because the request seeks all documents related to
Brady determinations without 19 "temporal or subject-matter limits." Defendants also argue that
California law protects these 20 documents and that federal courts apply a balancing test to
requests for information concerning 21 police disciplinary records. See, e.g., *Kelly v. City of San*
Jose, 114 F.R.D. 653, 663-68 (N.D. Cal. 22 1987). 23 Plaintiff seems to believe that he can use
information about White's alleged lies during 24 trial arising out of a domestic violence incident in
2016 to show that White lacks credibility in this 25 case. However, Plaintiff cannot use
information at trial from a previous unrelated disciplinary 26 action involving White, if one exists,
to show that White is lying on the stand in this case. 27 1 involving an allegation of lies is not one
of those ways. Federal Rule of Evidence 404(b) provides 2 that evidence "of any other crime,
wrong, or act is not admissible to prove a person's character in 3 order to show that on a particular
occasion the person acted in accordance with the character." 4 Fed. R. Evid. 404(b). There is an
exception to prove "motive, opportunity, intent, preparation, 5 plan, knowledge, identity, absence
of mistake, or lack of accident." Fed. R. Evid. 404(b)(2). 6 Here, Plaintiff fails to satisfy any
exception. 7 Courts have held that evidence of a defendant's wrongdoing unrelated to the case at
hand 8 is not subject to discovery. See, e.g., *Brownlee v. Burnes*, 2024 WL 4957495, at *2-3 (E.D.
Cal.

9 Dec. 3, 2024) (finding requested records irrelevant, overbroad, overly burdensome, and not
10 proportional to the needs of this case where plaintiff did not limit the request based on time
frame, 11 nature of the grievance allegations, or the outcome of the grievance); see also *Mueller v.*
Walker, 12 124 F.R.D. 654, 658 (D. Or. 1989) (denying discovery in excessive force case "as to
violations of 13 regulations or procedures unrelated to incidents of violence or complaints of
police brutality"). 14 Here, Plaintiff alleges that White lied on the stand in a case involving an
alleged domestic 15 violence incident with his ex-girlfriend. In this suit, Plaintiff alleges claims
under 42 U.S.C. § 16 1983 against White based on actions taken on November 22, 2021 for
unlawful seizure, false 17 arrest, violation of due process, and First Amendment retaliation arising
out of White's and other 18 officers' actions in removing Plaintiff's belongings from an
encampment.³ (Dkt. No. 40.) These 19 incidents are completely unrelated. 20 The scope of

disclosure under Brady and Coyer is very different from the scope of 21 discovery in civil cases. Brady stands for the proposition that the due process clause of the United 22 States Constitution requires the prosecution to disclose exculpatory material to a criminal 23 defendant. 373 U.S. at 86. Coyer stands for the proposition that “a defendant is entitled to 24 discovery of criminal charges currently pending against prosecution witnesses anywhere in the 25 state.” 142 Cal.App.3d at 842. These cases relate to the rights of criminal defendants. They do 26 27 3 It is not entirely clear which claims against White survived the order granting in part and 1 not bear on the situation at bar—a civil plaintiffs request for discovery. 2 For these reasons, the Court DENIES Plaintiff’s request. 3 IT IS SO ORDERED. 4 Dated: August 6, 2025 4 (la, . 5

SALLIE KIM

6 United States Magistrate Judge 7 8 9 10 11 a 12 15 16 it 4 18 19 20 21 22 23 24 25 26 27 28