

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,

CR 18-50166

Plaintiff,

vs.

UNITED STATES' RESPONSE
TO DEFENDANT'S FIRST
MOTIONS IN LIMINE

WELDON TWO BULLS,

Defendant.

COMES NOW the United States of America, by and through United States Attorney Ronald A. Parsons, Jr., and Assistant United States Attorney Cassandra DeCoste, and respectfully submit this response to defendant's first motions in limine. (Docket 31).

1) Regarding reference to the assault of the victim, Sheena Between Lodges: The United States objects to this motion in limine. The United States in its case against the defendant who is charged with Accessory After the Fact in violation of 18 U.S.C. § 3 must prove as an element that an assault resulting in serious bodily injury in fact occurred. The United States submits that it is known, by the defendant, how, when, and where the injuries to the victim occurred. His statements to Elgin Young Bear and Wylene Two Lance subsequent to the assault establish that she was assaulted, by whom, and where. The defendant's statements that the victim was "ganged" provide the means of the assault. The defendant's statements that the victim was assaulted by Gilbert Lakota, a/k/a "Jr." Lakota, and Lily Larvie provide by whom the

assault was perpetrated. Statements by the defendant to law enforcement establish where the parties were that weekend when the assault occurred, including that the victim was home Friday night through the time emergency medical professionals arrived at the residence on Monday, November 5, 2018.

2) Regarding contentions that the injuries sustained by the victim, Sheena Between Lodges, were the result of the assault: The United States opposes this motion in limine. As the defendant is charged with Accessory after the Fact in violation of 18 U.S.C. § 3 for knowing that the crime of assault resulting in serious bodily injury occurred, the United States must prove as an element that these serious bodily injuries were the result of an assault. Reference to these serious bodily injuries as the result of an assault will be supported by testimony and evidence at trial. As stated in the Notice of Expert Witness (D34), Dr. Mark Monasky, Neurosurgeon, will opine as to the patient's condition and whether her condition could be the result of a fall or assault. The testimony by Dr. Monasky will assist the trier of fact in determining whether these injuries were the result of a fall or assault.

3) Regarding alleged sexual assault of the victim, Sheena Between Lodges: The United States will not refer to any suspected sexual assault of the victim, Sheena Between Lodges.

4) Regarding Elgin Young Bear and Wylene Two Lance's statements which are not hearsay: The United States objects to this motion in limine. Pursuant to Fed. R. Evid. 801(d)(2)(A), the defendant's statements to Elgin Young

Bear and Wylene Two Lance on or about November 4, 2018, are not hearsay. The United States intends to offer these as admissions and statements by a party opponent.

Should this Court determine these admissions and statements are in fact hearsay, they are admissible pursuant to Fed. R. Evid. 804(b)(3). A reasonable person in the declarant's position would only have made these statements and admissions if he believed they were true because when the defendant made these statements and admissions they exposed the defendant to criminal liability. These statements and admissions are supported by corroborating circumstances that clearly indicate their trustworthiness as the defendant himself admitted to law enforcement that he in fact visited the residence of Elgin Young Bear and Wylene Two Lance on or around the time the statements were made. The defendant also provided facts about the visit which aligned with facts provided by the two witnesses about the visit. These statements are further offered in the defendant's criminal case as they tend to expose the defendant to criminal liability.

As to the report by Federal Bureau of Investigation Special Agent Robert Bennett, no audio recording of this interview exists. The interview by FBI Special Agent Robert Bennett is summarized in his report. FBI Special Agent Robert Bennett's 302 report is just a summary of his interview. Elgin Young Bear and Wylene Two Lance were interviewed first by OSTDPS Officer Vanessa Rodriguez, who also summarized in detail the statements offered and given by

Elgin Young Bear and Wylene Two Lance. BIA Special Agent Wesley Pacenza created an audio recording of his interview with Elgin Young Bear and Wylene Two Lance which has been provided the defendant through his counsel.

5) Regarding the child Gilbert Lakota and Sheena Between Lodges share: The United States will not refer to K.L.'s handicap or the fact that she was taken into protective custody during the investigation of this matter. However, witnesses may discuss the child's presence at certain dates and times during the week of the offense and the need to physically move and carry the young child in and around the residence.

Dated this 7th day of March, 2019.

RONDALD A. PARSONS, JR.
United States Attorney
By:

/s/ Cassandra DeCoste

Cassandra DeCoste
Assistant United States Attorney
515 Ninth Street, Suite 201
Rapid City, South Dakota 57701
Telephone: (605) 342-7822
Facsimile: (605) 342-1108