

**FEDERAL RULE OF CIVIL PROCEDURE 26
DISCLOSURE OF EXPERT REBUTTAL TESTIMONY OF
LYLE WILLIAM WELLS, JR.**

Case: *Captain Paul Campbell Fields v. City of Tulsa, et al.*,

Case No. 11-CV-115-GKF-TLW

Expert's Background and Experience:

I am a 32-year veteran of the Tulsa Police Department, which makes me uniquely suited to offer my expert opinions in this matter. I have served at every level of command in the Department, up to and including Deputy Chief of Police. I am familiar with the policies and practices of the Tulsa Police Department, including its policies and practices with regard to community policing and law enforcement appreciation events. Further details of my education and experience in the area of police policies and practices are set forth below.

I offer these opinions in support of Captain Paul Fields and in rebuttal to the opinions offered by Mr. Wafeeq Sabir, Ph.D. These opinions are based upon my personal knowledge and expertise and upon the current record established in this case. My opinions are subject to further elaboration during trial and examination.

I. The following includes a complete statement of my opinions to be expressed, the reasons and basis underlying them, and the data and other information considered in forming them.

- The “Law Enforcement Appreciation Day” hosted by the Islamic Society of Tulsa on March 4, 2011 (hereinafter “Islamic Society event”) was not a “community policing” event. As defined by the Police Executive Research Forum, community policing is “a collaborative effort between the police and the community that *identifies problems of crime and disorder* and involves all elements of the community in the *search for solutions to these problems.*” (emphasis added). This definition is consistent with the Tulsa Police Department’s policy on community policing (“Partnerships in Policing”). The Partnerships in Policing policy states, “Collaborative efforts between police and citizens facilitate the development of partnerships *to address the underlying causes of crime.*” (emphasis added). The emphasis and focus of community policing is to address causes of crime and crime trends as well as crime prevention. There was no agenda on the Islamic Society event flyer or in any of the emails directing attendance at the Islamic Society event for the invited officers to discuss crime or crime related issues of any kind. To the contrary, the expressed agenda was focused on religious activities: mosque tours, meeting religious leaders, watching a prayer service, and receiving presentations on Islamic religious beliefs.
- In my 32 years of service as a police officer, and more specifically, as a police officer on the Tulsa Police Department, officer or law enforcement “appreciation days” have always been voluntary events, and that is particularly the case when, as here, the event is being

hosted by a religious organization or held at a religious place of worship, such as a mosque, synagogue, or church.

- It is improper to order a police officer to attend a law enforcement “appreciation day” that is being hosted by a religious organization, that is being held at a religious place of worship, such as a mosque, and/or that is an invitation to either observe or engage in religious activities. And this is particularly the case when the event is scheduled to occur on the “holy day” of the religion in question. The police department has a duty and an obligation to accommodate the religious beliefs and practices of its employees and to make such events voluntary. Indeed, Captain Fields is not permitted to share his religious beliefs while in uniform; doing so could subject him to discipline. Therefore, the Department was improperly placing him and the officers in his charge who shared his religious convictions in a moral dilemma by ordering them to attend the Islamic Society event. In sum, it was improper to order Captain Fields to attend, or to have him order his men to attend, the Islamic Society event. And that is particularly the case since Captain Fields put the Department on notice of his religious objection to attending, and/or ordering his men who shared his religious convictions to attend, this event.
- As evidenced in part by the Islamic Society’s website, the flyer promoting the event, and by photographs taken during the course of the event that are now in the public domain, the Islamic Society event had the purpose and effect of conveying a government message of endorsement of Islam. This is improper. A police department should not promote nor engage in events that either have the purpose or, irrespective of the purpose, the effect of conveying a message that the government is engaging in or endorsing religious activities. The Islamic Society event had that purpose and effect. This is yet another reason why this event was not properly considered a “community policing” event and why mandating attendance was improper.
- Consequently, and as noted above, the order from Deputy Chief Webster directing Captain Fields to attend and/or to order his men to attend the Islamic Society event was an unlawful order.
- Pursuant to the Value Oath and his Oath of Office, Captain Fields had a duty to object to Deputy Chief Webster’s unlawful order on his own behalf and on behalf of the men under his charge. Pursuant to the Value Oath, Captain Fields is required “To stand up for what [he] know[s] is right” and “To stand up against wrongs in any form.” This includes standing up against a wrong that is occurring within the Department. Indeed, Captain Fields swore an oath to “defend, enforce, and obey the Constitution and laws of the United States.” This oath further requires him to “obey the lawful orders” of his superiors, and it carries with it the concomitant duty to not obey and to stand up against any “unlawful orders,” particularly those that run afoul of the United States Constitution, as in this case. Moreover, Captain Fields’ response and the way in which he responded were proper in that he had an obligation to put his chain of command on notice of his religious objection to Deputy Chief Webster’s order and to put his chain of command on notice of the unlawfulness of this order. Further, Captain Fields properly notified those other individuals and entities that should be made aware of such an important matter, including the City of Tulsa, the human resources department, the FOP, and Captain Fields’ immediate subordinates to whom he owes a duty as well.
- Subjecting Captain Fields to an Internal Affairs investigation, punitively transferring him to another division pending the investigation, and then ultimately punishing him by

suspending him without pay for 80 hours / 10 days and making the transfer permanent were in violation of the Tulsa Police Department's policy against retaliation, entitled "Prohibition Against Retaliation." It is evident that Captain Fields was punished for invoking a proper religious objection to being forced to comply with an unlawful order. Captain Fields followed the procedures for expressing his religious objection to the order and was then punished as a result.

- My opinions are based upon my extensive law enforcement experience, the policies and practices of the Tulsa Police Department, and the record evidence of this case, including, but not limited to, the deposition exhibits used in this case to date, including deposition exhibits 2 through 29, 31 through 36, 39, 41, 42, and 43. I also considered a photograph of an officer observing a religious service at the Islamic Society event that was published in the media. I may use any of these documents as exhibits during the course of my testimony.

II. My qualifications as an expert witness are as follows:

Education:

Associate of Arts: Oscar Rose Junior College (1972)

Bachelor of Science: Northeastern State University (1974)

Master of Police Administration: Oklahoma City University (1979)

Professional Training:

FBI National Academy: 132nd Session (1982)

Northwestern University Police Staff and Command (2000)

Professional Experience:

Tulsa Police Department (1975 thru 2007)

Officer to Corporal (1979)

Corporal to Sergeant (1981)

Sergeant to Lieutenant (1983)

Lieutenant to Major (1998)

Major to Deputy Chief (2002)

As a Deputy Chief of Police for the Tulsa Police Department, I managed all of the Bureaus in the Department from one time to another. As a Major, I commanded a Uniform Division, the Detective Division, and the Special Investigations Division. As a Lieutenant, I was a Shift Commander, an Area Commander, and an Assistant Division Commander of Headquarters and Training Division.

During my 32 years as a police officer, I have had countless training sessions on community policing, I have provided countless training sessions on community policing, and I have been personally involved in many community policing events. I have also been personally involved in many "appreciation days" throughout my career.

III. I am offering my expert testimony in this matter *pro bono*. However, all travel expenses will be billed at cost.

IV. I have not testified as an expert at trial or by deposition within the preceding four years. However, I have testified as a police expert in many criminal cases.

Signed: W. W. Wang, Date: 5/30/2012