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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Rimoni Pologa-Seiuli,	}	No. CV-20-02359-PHX-SPL
	}	
Plaintiff,	}	<b>ORDER</b>
vs.	}	
	}	
Robert Rice, et al.,	}	
	}	
Defendants.	}	
_____	}	

Before the Court are three pending motions *in limine* and responses: Plaintiff’s Motion in Limine Regarding Plaintiff’s Criminal Proceedings and Conviction for Aggravated Assault (Doc. 86) and Defendant’s Response (Doc. 92), Plaintiff’s Motion in Limine Regarding Plaintiff’s STG Affiliation (Doc. 88) and Defendant’s Response (Doc. 94), and Plaintiff’s Motion in Limine Regarding Plaintiff’s SCC Disciplinary Record (Doc. 89) and Defendant’s Response (Doc. 95). Each motion was fully briefed on or before September 25, 2024. On October 23, 2024, the Court held a final pretrial conference and heard oral argument on all the pending motions. The Court’s rulings are as follows.

**I. BACKGROUND**

This is an Eighth Amendment excessive force case brought pursuant to 42 U.S.C. § 1983. Plaintiff Rimoni Pologa-Seiuli (“Plaintiff”) is an inmate in the legal custody of the State of Hawaii Department of Public Safety who, during the relevant period, was incarcerated at the Saguaro Correctional Center (“SCC”) in Eloy, Arizona. (Doc. 84 at 1). Defendant Armando Perez (“Defendant,” “Perez,” or “Officer Perez”), during the relevant

1 period, served as the Security Threat Group (“STG”) Lieutenant and Assistant Shift  
2 Supervisor at SCC. (Doc. 81 at 3). Plaintiff contends that Perez, who was acting within the  
3 course and scope of his employment at SCC, used excessive force in violation of the Eighth  
4 Amendment after Plaintiff exited his cell during an attempted cell extraction on June 12,  
5 2019. (Doc. 84 at 2; Doc. 81 at 2–3). Plaintiff argues that Perez acted “maliciously and  
6 sadistically” by utilizing certain handling techniques against him, including striking him in  
7 the back several times and causing injuries to Plaintiff’s face, severe and long-lasting  
8 injuries to his back, and continuing mental anguish from the incident. (Doc. 84 at 2). Perez  
9 denies those claims and argues that the force used against Plaintiff was reasonable and  
10 necessary based on the totality of the circumstances. (*Id.*).

## 11 **II. DISCUSSION**

### 12 **1. Plaintiff’s Motion in Limine Regarding Plaintiff’s Criminal** 13 **Proceedings and Conviction for Aggravated Assault (Doc. 86).** 14 **Defendant’s Response (Doc. 92).**

15 First, Plaintiff seeks exclusion of evidence of Plaintiff’s criminal proceedings for  
16 aggravated assault on a corrections officer at trial, either through exhibits or by testimony.  
17 (Doc. 86 at 3). Defendant’s proposed exhibits 125–29, and portions of exhibit 135, all  
18 include information about Plaintiff’s conviction for aggravated assault on a corrections  
19 officer during the June 12, 2019 cell extraction at issue in this case. (Doc. 86 at 1; Doc. 92  
20 at 1). The proposed exhibits at issue include the complaint, indictment, plea, sentencing,  
21 and conviction documents from criminal proceedings in Pinal County Superior Court  
22 (CR201901899). (Doc. 86 at 1–2).<sup>1</sup>

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23  
24 <sup>1</sup> The proposed exhibits at issue, which are attached to Doc. 86, include the criminal  
25 complaint (Ex. 125), the indictment (Ex. 126), the plea agreement (Ex. 127), a minute entry  
26 for Plaintiff’s change of plea and sentencing (Ex. 128), and a copy of the judgment (Ex.  
27 129). Exhibit 135 includes copies of all the aforementioned documents, as well as a few  
28 additional documents, such as the Plaintiff’s conditions of release and a transport order for  
his arraignment proceedings.

1           On June 12, 2019, prior to Defendant Perez’s alleged use of excessive force, Plaintiff  
2 exited his cell and struck Corrections Officer Rice in the jaw. (Doc. 92 at 1–2). Plaintiff  
3 ultimately pled guilty to Aggravated Assault on a Corrections Officer and stipulated to a  
4 prison sentence of 1.5 years. (*Id.* at 2). Plaintiff has stipulated to the admissibility of  
5 evidence showing that he assaulted Officer Rice and received a disciplinary violation for  
6 doing so. (*Id.*). Plaintiff argues that (1) the criminal records are not relevant to Plaintiff’s  
7 excessive force claim, and (2) the risk of undue prejudice under Rule 403 outweighs the  
8 probative value of the records. (Doc. 86 at 2). On the other hand, Defendant argues that (1)  
9 the criminal conviction is relevant to Perez’s perception of the events that occurred on June  
10 12, 2019, including his knowledge that Plaintiff had assaulted Officer Rice, which justifies  
11 Perez’s use of force to prevent further injury; (2) the criminal conviction is relevant to rebut  
12 Plaintiff’s claim for emotional distress damages, because Plaintiff’s additional 1.5-year  
13 sentencing “shows that *Plaintiff* contributed to his own distress and/or loss of enjoyment of  
14 life, not Defendant;” (3) the evidence is admissible under Rule 404(b) to prove Plaintiff’s  
15 intent to harm Officer Rice and potential bias or motive to file this lawsuit; and (4) the  
16 evidence is admissible to impeach Plaintiff’s credibility under Rules 607, 608(b), and 609,  
17 because if Plaintiff testifies that he was “confused” and “disoriented” when he ran out of  
18 his cell, the fact that he struck Officer Rice in the jaw shows that he was neither confused  
19 or disoriented, and that he left his cell with the intent to assault an officer. (Doc. 92 at 2–3).

20           Evidence may not be admitted at trial unless it is relevant, as defined by Rule 401 of  
21 the Federal Rules of Evidence. Evidence is relevant if it has “any tendency to make the  
22 existence of any fact that is of consequence to the determination of the action more probable  
23 or less probable than it would be without the evidence.” Fed. R. Evid. 401. The particular  
24 facts of the case determine the relevancy of a piece of evidence. *See* 2 Jack B. Weinstein &  
25 Margaret A. Berger, Weinstein’s Federal Evidence § 401.04 [2] [a] (Joseph M. McLaughlin  
26 ed., 2d ed. 2000) (“Relevance is not inherent in any item of evidence but exists only as a  
27 relation between an item of evidence and a matter properly provable in the case.”).

28           As a preliminary matter, it is clear that the fact that Plaintiff ran out of his cell and

1 struck Officer Rice is relevant to the matter at hand, given that it took place just before  
2 Plaintiff's altercation with Perez, and given that Officer Rice is one of the witnesses who  
3 may be called at trial by either Plaintiff or Defendant. (Doc. 81 at 16, 23). Defendant is  
4 correct that the assault on Officer Rice is relevant to Perez's perception of the events that  
5 occurred and could make it more probable that his use of force was justified and appropriate  
6 under the circumstances. (Doc. 92 at 2). However, it is a separate question whether the  
7 *criminal conviction* arising out of the assault is relevant or otherwise admissible in this case.

8 Federal Rule of Evidence 403 provides: "The court may exclude relevant evidence  
9 if its probative value is substantially outweighed by a danger of one or more of the  
10 following: unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting  
11 time, or needlessly presenting cumulative evidence." A decision regarding probative value  
12 must be influenced by the availability of other sources of evidence on the point in question.  
13 *See Old Chief v. United States*, 519 U.S. 172, 182–85 (1997). "Where the evidence is of  
14 very slight (if any) probative value, it's an abuse of discretion to admit it if there's even a  
15 modest likelihood of unfair prejudice or a small risk of misleading the jury." *United States*  
16 *v. Hitt*, 981 F.2d 422, 424 (9th Cir. 1992).

17 Here, Plaintiff is correct that putting forth evidence of his criminal conviction, which  
18 occurred just prior to the altercation out of which his excessive force claim arises, could  
19 "inflame the passions of the jury such that they find against Plaintiff because of his  
20 conviction." (Doc. 86 at 2). Regardless of what happened between Plaintiff and Officer  
21 Rice, Plaintiff should be given a fair opportunity to present his case that Officer Perez used  
22 excessive force against him. Additionally, presenting evidence of Plaintiff's criminal  
23 conviction is needlessly cumulative given that Plaintiff has already stipulated to admitting  
24 that he struck Officer Rice and received a disciplinary report for it, and given that video  
25 evidence will show the very same. (Doc. 81 at 38).

26 Defendant presents additional reasons to consider admitting evidence related to  
27 Plaintiff's criminal conviction. First, there is his argument under Rule 404(b) that the  
28 evidence can be used to prove Plaintiff's intent to harm Officer Rice. Federal Rule of

1 Evidence 404 prohibits the admission of evidence of a crime, wrong, or other act “to prove  
2 a person’s character in order to show that on a particular occasion the person acted in  
3 accordance with the character.” Fed. R. Evid. 404(b)(1). However, such evidence “may be  
4 admissible for another purpose, such as proving motive, opportunity, intent, preparation,  
5 plan, knowledge, identity, absence of mistake, or lack of accident.” Fed. R. Evid. 404(b)(2).  
6 The Ninth Circuit has indicated that “Rule 404(b) is a rule of inclusion—not exclusion,”  
7 and that once it has been established that evidence serves one of the listed purposes, it should  
8 only be excluded for one of the reasons described in Rule 403 (unfair prejudice, confusion  
9 of the issues, misleading the jury, etc.). *United States v. Curtin*, 489 F.3d 935, 944 (9th Cir.  
10 2007).

11 If Officer Rice were still a Defendant in this case, it might be true that evidence of  
12 Plaintiff’s conviction would be suitably admitted under Rule 404(b)(2) to show Plaintiff’s  
13 intent to harm him; however, Officer Rice was dismissed from this case for failure to serve  
14 pursuant to Federal Rule of Civil Procedure 4(m). (Doc. 27). It is unclear how Plaintiff’s  
15 alleged intent to harm Officer *Rice* is relevant to showing an intent to harm Officer *Perez*  
16 without engaging in the forbidden two-step propensity inference that Rule 404 specifically  
17 prohibits (i.e., that because Plaintiff had an intent to harm Officer Rice, he is a bad and  
18 violent person, and because he is a bad and violent person, he had an intent to harm Officer  
19 Perez, which would justify Officer Perez’s use of force to subdue him). *See, e.g., Mueller*  
20 *& Kirkpatrick*, 1 Federal Evidence § 4:28 (4th ed.) (“The thing to avoid is to allow a jury to  
21 draw the deadly and decidedly improper two-step inference, from bad act to bad person, and  
22 from bad person to guilt of the charged offense, or give way to the emotional impulse to  
23 punish because the other act alone shows that punishment is deserved.”).

24 Although the *facts* underlying Plaintiff’s criminal conviction—which Plaintiff has  
25 already stipulated to admitting—are relevant, the criminal conviction itself is not, and could  
26 not be, relevant to Officer Perez’s perception of the events on June 19, 2019, given that  
27 Plaintiff was obviously not convicted yet. However, Defendant argues that the guilty plea  
28 in Plaintiff’s criminal case shows both the “magnitude” of his conduct toward Officer Rice

1 (as it “warrant[ed] referral to local law enforcement”), and also shows that Plaintiff “acted  
2 with the requisite intent to assault Officer Rice,” which is relevant to Officer Perez’s  
3 perception of the situation, and therefore relevant to his subjective intent at the time that the  
4 June 19, 2019 incident occurred. (Doc. 92 at 2).

5 This argument is unavailing. Officer Perez, at the time of the June 19, 2019, had no  
6 way of knowing Plaintiff’s intent; he would only have known the facts of the situation  
7 before him (namely, that Plaintiff had run out of his cell and struck Officer Rice). Whatever  
8 Plaintiff’s guilty plea or criminal conviction might say about Plaintiff’s intent to harm  
9 Officer Rice, that has no bearing on Officer Perez’s perception of the situation as it occurred,  
10 and it is therefore irrelevant under Rule 401. Furthermore, admission of the criminal  
11 conviction would be highly prejudicial under Rule 403. Given that the criminal conviction  
12 arose out of the same June 19, 2019 incident that gave rise to the instant case, admitting the  
13 conviction could mislead the jury into thinking that Plaintiff has already tried some part of  
14 this case and lost, even though Plaintiff’s present Eighth Amendment claim is entirely  
15 separate from his criminal proceedings.

16 However, Defendant also claims that the criminal conviction is relevant to Plaintiff’s  
17 claims for emotional distress damages, and that defense counsel should be able to use  
18 evidence of the criminal conviction for impeachment purposes if necessary to attack  
19 Plaintiff’s credibility on the stand. (Doc. 92 at 2–3). Federal Rules of Evidence 607, 608,  
20 and 609 all pertain to the impeachment of witnesses. Rule 609 specifically pertains to  
21 impeachment of a witness’s character for truthfulness by evidence of a criminal conviction.  
22 The rule dictates that for a crime punishable by imprisonment for over a year, the evidence  
23 “must be admitted, subject to Rule 403, in a civil case.” Fed. R. Evid. 609(a)(1)(A). Plaintiff  
24 confirmed at the hearing that he had no intention of arguing that his loss of enjoyment of  
25 life is due to being “sentenced to an additional 1.5 year-sentence as a result of *his* assault on  
26 Officer Rice,” (Doc. 92 at 2), contrary to Defendant’s contention. (ME 102). If Plaintiff  
27 does try to raise this argument at trial, Defendant may challenge it by moving to introduce  
28 evidence regarding Plaintiff’s criminal conviction at that time. Defendant is also entitled to

1 introduce evidence of the criminal conviction if it becomes necessary to impeach Plaintiff's  
2 testimony on the stand. Besides these limited purposes, which may or may not even arise at  
3 trial, Defendant may not introduce evidence of Plaintiff's criminal conviction given its  
4 limited relevance and highly prejudicial nature.

5 Therefore, Plaintiff's Motion (Doc. 86) will be **granted as modified**. Defendant may  
6 only seek to introduce evidence of the criminal conviction at trial if necessary for  
7 impeachment purposes pursuant to Rule 609, or if Plaintiff raises a claim for emotional  
8 distress damages based on his additional 1.5-year sentence. If introduction of the conviction  
9 becomes necessary for one of these limited purposes, Plaintiff may seek a limiting  
10 instruction pursuant to Rule 105.

11 **2. Plaintiff's Motion in Limine Regarding Plaintiff's STG Affiliation**  
12 **(Doc. 88). Defendant's Response (Doc. 94).**

13 Next, Plaintiff asks the Court to preclude any evidence or testimony regarding  
14 Plaintiff's affiliation with Security Threat Group ("STG"). (Doc. 88 at 1). The excessive  
15 force incident that gave rise to Plaintiff's claim occurred while Defendant Perez was acting  
16 as the STG Lieutenant at SCC, where Plaintiff was housed (*Id.*), and the Joint Proposed  
17 Pretrial Order includes a material fact not admitted that "Plaintiff is a self-admitted and  
18 verified member of the STG 'Hella Vella'" (Doc. 81 at 3). Plaintiff argues that (1) Plaintiff's  
19 STG affiliation is not relevant to his excessive force claim; (2) that Plaintiff's STG  
20 affiliation is improper character evidence and/or improper evidence of another crime, wrong  
21 or act under Rules 404(a)(1) and 404(b)(1), respectively; and (3) that Plaintiff's STG  
22 affiliation would be unfairly prejudicial under Rule 403. (Doc. 88 at 2).

23 Defendant makes a compelling argument that Plaintiff's STG affiliation is relevant  
24 to Defendant's subjective perception of Plaintiff's dangerousness, which could help the jury  
25 determine whether he exercised reasonable or excessive force under the circumstances. *See*  
26 *Hoard v. Hartman*, 904 F.3d 780, 790 (9th Cir. 2018) (finding that the "core inquiry" in an  
27 Eighth Amendment excessive force case "is whether the defendant officers acted in bad  
28 faith with the intent to harm the inmate") (citation omitted); *Stevenson v. Holland*, 504 F.

1 Supp. 3d 1107, 1138 (E.D. Cal. 2020) (“While an inmate’s status as a gang member could  
2 carry additional risks for custodial officers in many ways and contexts, risk based on a  
3 reasonable perception of that status must directly relate to the incidents at issue.”). Evidence  
4 is relevant if it has “any tendency to make the existence of any fact that is of consequence  
5 to the determination of the action more probable or less probable than it would be without  
6 the evidence.” Fed. R. Evid. 401. It appears that Defendant Perez will present evidence  
7 and/or testify regarding his specialized role as an STG Lieutenant in order to illustrate his  
8 subjective state of mind when exercising force against Plaintiff. (Doc. 94 at 3).

9         However, “it is well-established that gang affiliation evidence presents a very high  
10 danger of substantial prejudice.” *Stevenson*, 504 F. Supp. 3d at 1138 (citing *Kennedy v.*  
11 *Lockyer*, 379 F.3d 1041, 1055–1056 (9th Cir. 2004) (“Our cases make it clear that evidence  
12 relating to gang involvement will almost always be prejudicial . . . .”)); *see also Estate of*  
13 *Diaz v. City of Anaheim*, 840 F.3d 592, 602 (9th Cir. 2016) (finding that evidence of a  
14 plaintiff’s gang affiliation in a Section 1983 case was unduly prejudicial under Rule 403).  
15 To offset the prejudicial nature of this evidence, Defendant has agreed “not to offer evidence  
16 and/or inquire into the nature of the gang, its history, other members, activities, or Plaintiff’s  
17 participation in specific gang activities unless Plaintiff opens the door.” (Doc. 94 at 4).  
18 Additionally, Defendant argues that potential prejudice can be avoided through the *voir dire*  
19 process. (*Id.*).

20         Plaintiff is also concerned about the use of Plaintiff’s gang affiliation as improper  
21 character evidence under Rule 404. The Rule prohibits the admission of evidence of a crime,  
22 wrong, or other act “to prove a person’s character in order to show that on a particular  
23 occasion the person acted in accordance with the character.” Fed. R. Evid. 404(b)(1).  
24 However, such evidence “may be admissible for another purpose, such as proving motive,  
25 opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of  
26 accident.” Fed. R. Evid. 404(b)(2). Defendant argues that even if Plaintiff’s STG affiliation  
27 were a crime, wrong, or other act within the meaning of Rule 404, “Defendant does not  
28 intend to admit evidence regarding Plaintiff’s STG affiliation to prove a character trait or to



1 show that he acted in accordance with that character trait during the June 12, 2019, cell  
2 extraction.” (Doc. 94 at 2). Instead, Defendant argues that the evidence is relevant and  
3 material to Defendant’s subjective intent in exercising force against Plaintiff, because it  
4 shows “Defendant’s perception of Plaintiff’s potential dangerousness given his specialized  
5 knowledge regarding STG behavior.” (*Id.*). Additionally, Defendant argues that Plaintiff’s  
6 STG affiliation establishes the nature of their relationship and prior interactions, given that  
7 Defendant Perez was SCC’s STG Lieutenant and closely monitored Plaintiff’s behavior.  
8 (*Id.* at 3). Finally, Defendant argues that the STG affiliation is admissible under Rule 404(b)  
9 to show Plaintiff’s motive or bias in filing this lawsuit, and that it may be used as  
10 impeachment evidence to attack Plaintiff’s credibility at trial. (*Id.*).

11 The probative value of Plaintiff’s STG affiliation to Defendant Perez’s subjective  
12 intent at the time of the June 12, 2019 incident weighs toward admissibility, despite the risk  
13 of prejudice to Plaintiff by casting him as a “gang member” before the jury. To try to offset  
14 that prejudice, Plaintiff may seek a limiting instruction pursuant to Rule 105 that would  
15 limit the jury’s consideration of Plaintiff’s gang affiliation to determining Defendant Perez’s  
16 subjective intent during the cell extraction at issue. *See, e.g., Stevenson*, 504 F. Supp. 3d at  
17 1138 (“[A]ny admission of gang affiliation evidence must be strictly limited to Defendants’  
18 testimony as to their states of mind.”).

19 For these reasons, Plaintiff’s Motion (Doc. 88) will be **denied without prejudice**.  
20 Plaintiff may re-raise his arguments at trial if Defendant attempts to introduce evidence of  
21 his gang membership to make a forbidden propensity argument; at present, however, the  
22 Court agrees that Plaintiff’s STG affiliation is directly relevant to Officer Perez’s subjective  
23 state of mind during the June 12, 2019 altercation at issue, and the probative value of that  
24 evidence is not substantially outweighed by the dangers listed under Rule 403.

25 **3. Plaintiff’s Motion in Limine Regarding Plaintiff’s SCC Disciplinary**  
26 **Record (Doc. 89). Defendant’s Response (Doc. 95).**

27 Finally, Plaintiff asks this Court to exclude various proposed exhibits that include  
28 evidence of Plaintiff’s disciplinary infractions while incarcerated. (Doc. 89 at 1).

1 Specifically, Defendant’s proposed exhibits 116–22, as well as portions of proposed exhibit  
2 135, include disciplinary reports regarding Plaintiff’s infractions between October 2019 and  
3 October 2020; proposed exhibit 124 documents Plaintiff’s housing transfers and  
4 disciplinary violations; and proposed exhibits 135, 137, and 138 document Plaintiff’s  
5 disciplinary violations in a list format. (*Id.* at 1–2). Plaintiff argues that any disciplinary  
6 events occurring after the June 12, 2019 incident are barred by Rule 404(b)(1), are not  
7 relevant to Plaintiff’s excessive force claim, and are outweighed by the danger of unfair  
8 prejudice under Rule 403. (*Id.* at 2–3).

9 Defendant argues that Plaintiff’s pre-June 12, 2019 incident disciplinary records, at  
10 least, are relevant to the case. (Doc. 95 at 2). Specifically, Defendant cites to a May 2, 2019  
11 disciplinary incident where Defendant observed Plaintiff fighting other inmates in a shower  
12 stall, and Plaintiff was then transferred to a Restrictive Housing Unit, where he “became an  
13 increasing management problem and acquired numerous additional disciplinary reports for  
14 non-compliance with facility rules.” (*Id.* at 3). Defendant argues that this factual context  
15 “must come in to establish why Defendant was present for the cell extraction, why he  
16 involved himself in the extraction, and why he continued to utilize force once Plaintiff was  
17 taken to the ground and refused to submit to restraints.” (*Id.*). Additionally, Defendant  
18 argues that this evidence should come in under Rule 404(b) to demonstrate Plaintiff’s bias  
19 or motive in bringing this lawsuit, because Defendant issued the disciplinary report that  
20 placed Plaintiff in restrictive housing to begin with. (*Id.* at 4).

21 *i. Proposed Exhibits 116–22*

22 Defendant’s proposed exhibits 116–22 are irrelevant to the case at hand and are at  
23 risk of being used to make an improper character inference under Rule 404(b)(1), because  
24 the exhibits all pertain to disciplinary infractions that occurred *after* the June 12, 2019 cell  
25 extraction at issue. Defendant states that he would only seek to admit these records as  
26 impeachment evidence if Plaintiff takes the position that he is a “model inmate” at trial.  
27 (Doc. 95 at 2). Plaintiff’s Motion (Doc. 89) will be **denied without prejudice** as to these  
28 proposed exhibits given that it does not appear that Defendant will attempt to introduce

1 them into evidence at trial. However, if Defendant tries to introduce these exhibits for non-  
2 impeachment purposes, Plaintiff may re-raise his arguments at that time.

3 *ii. Proposed Exhibit 124*

4 Proposed exhibit 124 is a Housing History Report, which documents Plaintiff's  
5 housing transfers between 2018 and 2021. The exhibit includes an entry for May 2, 2019,  
6 noting that the reason for his move on that date was "Placed segregation." (Doc. 89-1 at 3).  
7 This tends to support Defendant's proposed testimony regarding the May 2, 2019  
8 disciplinary infraction issued by Defendant against Plaintiff, and it is therefore relevant to  
9 the case at hand. However, Defendant has presented no reason the Court should admit the  
10 portions of the Housing Report that took place after the June 12, 2019 incident. At the  
11 hearing, Plaintiff indicated that he was amenable to stipulating to the admissibility of this  
12 exhibit if Defendant agrees to redact the portion of the document that took place after June  
13 2019. (ME 102). Therefore, Plaintiff's Motion (Doc. 89) will be **denied without prejudice**  
14 as to this exhibit, with the expectation that the parties will be able to stipulate to a redacted  
15 version of proposed exhibit 124 if necessary.

16 *iii. Excerpts of Proposed Exhibit 135*

17 The excerpts of proposed exhibit 135 that are attached to Plaintiff's Motion include  
18 various progress reports made to the State of Hawaii regarding Plaintiff's disciplinary  
19 infractions. The documents at Bates stamps CC-POLOGA001448-51 (Doc. 89-1 at 44-47)  
20 document disciplinary infractions that occurred prior to the June 12, 2019 incident, while  
21 the rest of the excerpts (CC-POLOGA001440-47, CC-POLOGA001561-91 (Doc. 89-1 at  
22 36-43, 49-79)) are progress reports issued after the incident and include later disciplinary  
23 infractions that are irrelevant to the case at hand. The Court agrees with Defendant that the  
24 pre-June 12, 2019 disciplinary records (Bates stamps CC-POLOGA001448-51 (Doc. 89-1  
25 at 44-47)) are relevant to the instant matter, because they help establish why Officer Perez  
26 was present at the scene of the June 12, 2019 incident. (Doc. 95 at 3). Again, Defendant  
27 argues that they do not intend to introduce post-incident disciplinary infractions (Bates  
28 stamps CC-POLOGA001440-47, CC-POLOGA001561-91 (Doc. 89-1 at 36-43, 49-79))

1 except if necessary as impeachment evidence. Therefore, Plaintiff’s Motion (Doc. 89) will  
2 be **denied without prejudice** as to these excerpts.

3 *iv. Proposed Exhibits 137–38*

4 These exhibits are progress reports to the State of Hawaii that document Plaintiff’s  
5 pre-June 12, 2019 disciplinary infractions. These documents appear duplicative of the  
6 documents at Bates stamps CC-POLOGA001448–51 (Doc. 89-1 at 44–47). In fact,  
7 proposed exhibit 138 (CC-POLOGA001206–07 (Doc. 89-1 at 84–85)) appears to be an  
8 exact copy of the document that appears at Bates stamps CC-POLOGA001448–49 (Doc.  
9 89-1 at 44–45). Defense counsel indicated at the hearing that they would be amenable to  
10 stipulating to the exclusion of these exhibits if they are indeed identical. (ME 102).  
11 Therefore, Plaintiff’s Motion (Doc. 89) will be **denied without prejudice** as to these  
12 exhibits. Plaintiff’s counsel and defense counsel may choose to meet and confer and  
13 stipulate to the exclusion of these exhibits as duplicative of other documents in the record.

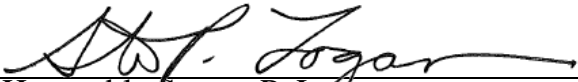
14 Accordingly,

15 **IT IS ORDERED** that Plaintiff’s Motion in Limine Regarding Plaintiff’s Criminal  
16 Proceedings and Conviction for Aggravated Assault (Doc. 86) is **granted as modified** in  
17 accordance with this Order.

18 **IT IS FURTHER ORDERED** that Plaintiff’s Motion in Limine Regarding  
19 Plaintiff’s STG Affiliation (Doc. 88) is **denied without prejudice**.

20 **IT IS FURTHER ORDERED** that Plaintiff’s Motion in Limine Regarding  
21 Plaintiff’s SCC Disciplinary Record (Doc. 89) is **denied without prejudice**.

22 Dated this 24th day of October, 2024.

23  
24   
25 Honorable Steven P. Logan  
26 United States District Judge  
27  
28