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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

JAMES C. McCURDY,)	Case No.: 1:17-cv-01356-SAB (PC)
)	
Plaintiff,)	
)	ORDER GRANTING DEFENDANT’S MOTION
v.)	IN LIMINE NUMBER FIVE
)	
S. KERNAN, et al.,)	(ECF No. 102)
)	
Defendants.)	
)	
)	
)	

Plaintiff James C. McCurdy is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This case is currently set for jury trial before the undersigned on January 25, 2022. On December 15, 2020, the Court granted Plaintiff’s request for the attendance of incarcerated witness Christopher Price. (ECF No. 80.)

On November 15, 2021, Defendant filed a motion in limine to limit the testimony of inmate-witness Christopher Price. (ECF No. 102.) Plaintiff filed an opposition on December 3, 2021. (ECF No. 113.)

Evidence is relevant if: (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and (b) the fact is of consequence in determining the action. Fed. R. Evid. 401. The court may exclude relevant evidence if its probative value is substantially outweighed by a danger of unfair prejudice, confusing the issues, misleading the jury, undue delay, wasting time, or needlessly presenting cumulative evidence. Fed. R. Evid. 403.

1 Defendant seeks to limit testimony by witness Price to only what he heard on April 19, 2016-
2 date of the incident at issue. (ECF No. 102.) Plaintiff opposes the limitation of his witness's
3 testimony and argues he "may have knowledge of events leading up to the extraction that day." (ECF
4 No. 113 at 5.)

5 Defendant's motion shall be granted as any testimony by witness Price as to his prior
6 experience with being extracted from cells in other institutions, and testimony relating to other alleged
7 uses of force with other inmates on dates not at issue, is not relevant to the issue in this case. In
8 addition, such testimony is highly prejudicial and will confuse the issues to be determined. Lastly, an
9 attempt to "unring the bell" after such testimony would be futile. Accordingly, Defendant's motion in
10 limine number five is GRANTED, and witness Price's testimony limited to the incident which took
11 place on April 19, 2016.

12
13 IT IS SO ORDERED.

14 Dated: December 10, 2021



UNITED STATES MAGISTRATE JUDGE