

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF CALIFORNIA

3
4 VERNON WAYNE McNEAL,

No. 2:05-cv-00441-GEB-EFB

5 Plaintiff,

6 v.

**ORDER DENYING EACH DEFENDANT'S
MOTION IN LIMINE**

7 F. LECKIE; A. ERVIN; ROY
8 CHATHAM, substituted party
9 for C. CHATHAM, deceased; and
D. VAN LEER;

10 Defendants.*

11
12 On February 1, 2016, Defendants filed "Motions in
13 Limine" in which they seek a pretrial order precluding the
14 admission of certain evidence at trial. (Defs.' MILs, ECF No.
15 249.)

16 Defendants have not shown that motions nos. 1-3 involve
17 controversies that have sufficient concreteness to justify
18 issuance of in limine rulings. Therefore, these requests are
19 denied.

20 Defendants seek in motions nos. 4, 5, and 7 to preclude
21 Plaintiff from introducing evidence concerning claims that were
22 adjudicated in Defendants' favor in the Order, (ECF No. 158),
23 which adopted the Magistrate Judge's Findings and Recommendations
24 on certain Defendants' summary judgment motion. (Jan. 18, 2013
25 F.&R., ECF No. 145). Decision on each of these motions is

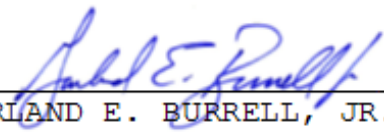
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27 _____
28 * The caption has been amended to reflect the correct spelling of
Defendant Leckie's last name and according to Order substituting Roy Chatham
in place of deceased Defendant C. Chatham. (See Order, Jan. 12, 2016, ECF No.
242.)

1 unnecessary since it has not been shown that the issues involved
2 in the motions are preserved for trial in the February 24, 2015
3 Final Pretrial Order, (ECF No. 180), the May 22, 2015 Supplement
4 to the Pretrial Order, (ECF No. 206), or the June 1, 2015 Second
5 Supplement to the Pretrial Order, (ECF No. 210).

6 Defendants seek in motion no. 6 to preclude Plaintiff
7 from "introducing any testimony or evidence that Defendants
8 Chatham or Ervin used excessive force on Plaintiff when applying
9 leg restraints, or by coming down on Plaintiff's back with their
10 knees." (Defs.' MILs 6:7-13.) Defendants argue: "Any claims
11 associated with Defendants' Chatham and Ervin's use of excessive
12 force in violation of the Eighth Amendment associated with the
13 application of leg restraints on Plaintiff or coming down on
14 Plaintiff with their knees in his back, have been dismissed." Id.
15 at 6:10-13 (emphasis added).) Defendants are incorrect. The
16 Magistrate Judge's January 18, 2013 Findings and Recommendations,
17 denying these Defendants' summary judgment motion were adopted by
18 the undersigned judge on July 8, 2013. (See Jan. 18, 2013 F.&R.
19 15:21-16:2; Order Adopting F.&R. 2:10-13, ECF No. 158.)

20 For the stated reasons, each in limine motion is
21 DENIED.

22 Dated: September 13, 2016

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25 _____
26 GARIAND E. BURRELL, JR.
27 Senior United States District Judge
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