

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3
4 TION ALONZO HILL,

5 Plaintiff,

6 v.

7 JOSHUA ARNOLD, et al.,

8 Defendants.

Case No. 09-cv-05434-TEH

**ORDER BIFURCATING ISSUES AT
TRIAL**

9
10 The Court has considered the parties' arguments regarding Plaintiff's First Motion
11 in Limine (Docket Nos. 149, 163). The Court is concerned that evidence of Plaintiff's
12 criminal history will be highly prejudicial to Plaintiff's case. However, such evidence is
13 also relevant to whether Defendants' actions caused Plaintiff's alleged injuries (an element
14 of Plaintiff's Fourteenth Amendment claim), as well as the extent of any such harm to be
15 considered in a damages calculation. Plaintiff's Proposed Jury Instructions at 3 (Docket
16 No. 128); Defendants' Proposed Jury Instructions at 2 (Docket No. 130). Indeed,
17 Plaintiff's own damages expert testified that the death of Plaintiff's girlfriend, for which
18 Plaintiff was convicted of murder and attempted arson, is a "secondary cause" of his PTSD
19 symptoms. Ex. N to Oldfather Decl. at 3 (Docket No. 167-14).

20 "[T]o avoid prejudice . . . the court may order a separate trial of one or more
21 separate issues" Fed. R. Civ. P. 42(b). In order to avoid prejudice against Plaintiff,
22 IT IS HEREBY ORDERED that Plaintiff's trial shall be bifurcated into the following two
23 phases: first, the parties shall try the first two elements of Plaintiff's Fourteenth
24 Amendment claim, that is, whether Defendants used excessive force against Plaintiff with
25 the intent to cause him harm, and related defenses. Second, if the jury returns a verdict for
26 Plaintiff on the first two elements, the parties shall try the third element of the Fourteenth
27 Amendment claim, whether the acts of Defendants caused harm to Plaintiff, as well as the
28 extent of Plaintiff's damages.


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Although it will not eliminate the risk of prejudice completely, the Court finds that separate phases of trial on these issues will reduce the risk of prejudice to Plaintiff from the jury considering the evidence for those elements for which it is not relevant, while permitting consideration of the evidence where it is relevant.

This Order is not an order on Plaintiff's First Motion in Limine. Nor does the language above constitute an order on the parties' proposed jury instructions on the Fourteenth Amendment claim. Rather, the language merely outlines the two phases of trial.

IT IS SO ORDERED.

Dated: 06/03/2015



THELTON E. HENDERSON
United States District Judge