

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**

EDMOND SPENCER (# 253212)

CIVIL ACTION

VERSUS

NO. 15-78-JWD-RLB

WILLIAM ROSSO, ET AL.

ORDER

This matter comes before the Court on the plaintiff's Motion in Limine (R. Doc. 159). The plaintiff seeks to exclude from use at trial any evidence regarding his criminal convictions, disciplinary records while confined, and mental health records.

The plaintiff's Motion in Limine (R. Doc. 159) shall be denied as premature. Upon the scheduling of a pretrial conference, the Court will instruct the parties to provide copies of their proposed exhibits, and the Court will then address the potential admissibility of these exhibits or testimony at the conference. Plaintiff may refile his motion following that conference should the defense designate any such evidence.

The plaintiff is advised, however, that should he choose to testify, the fact of one or more criminal convictions is generally admissible under the Federal Rules of Evidence on the issue of the character for truthfulness of a witness in a civil case. See Federal Rule of Evidence 609(a)(1)(A).¹ In addition, whereas proof of other instances of misconduct is not generally admissible to show that a witness has a bad character or acted improperly on another occasion,

¹ Plaintiff's Motion argues that it "has been well over 10 years since plaintiff's last criminal conviction. Therefore this information should be excluded." (R. Doc. 159 at 1). The limitation on using evidence of prior convictions for impeachment under Federal Rule of Evidence 609(b), however, applies "if more than 10 years have passed since the witness's conviction or release from confinement for it." (emphasis added). As plaintiff is currently incarcerated, it appears that this 10 year period has not yet begun with respect to at least one prior conviction.

see Federal Rules of Evidence 404(a)(1) and (b)(1), such evidence may be allowed under certain circumstances, see Federal Rules of Evidence 404(a)(3) and (b)(2). Accordingly,

IT IS ORDERED that the plaintiff's Motion in Limine (R. Doc. 159) be and is hereby **DENIED AS PREMATURE**.

Signed in Baton Rouge, Louisiana, on November 16, 2016.



RICHARD L. BOURGEOIS, JR.
UNITED STATES MAGISTRATE JUDGE