

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DAVID SMITH,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 06-4312
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, et al.,	:	
	:	
Defendants.	:	

**ORDER**

AND NOW, this 19th day of October, 2009, upon consideration of Plaintiff's Motion *in limine Omnibus (sic)* (Doc. No. 87), it is hereby ORDERED as follows:

1. Plaintiff's Motion to exclude Plaintiff's alleged prior criminal conduct or discipline while incarcerated and medical condition and/or treatment is DENIED. Plaintiff's alleged prior criminal conduct or discipline while incarcerated and medical condition and/or treatment is admissible only to the extent Defendant Officers had personal knowledge of such information before the September 22, 2004 incident and for the limited purpose of establishing Defendant Officers' knowledge and state of mind before resorting to the use of force against Plaintiff.
2. Plaintiff's Motion to exclude his medical records following the incident of September 22, 2004 is DENIED. To the extent the medical records contain statements made for the purpose of medical diagnosis or treatment, the records are admissible if they are otherwise relevant; any statements of fault or identity contained in the records will be excluded.

3. Plaintiff's Motion to exclude prior testimony of available witnesses is DENIED.  
Either party may use at trial prior testimony of available witnesses in accordance with the Federal Rules of Evidence.

BY THE COURT:

Joel H. Slomsky, J.  
JOEL H. SLOMSKY, J.