

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

FRADICO GRABSKI, aka John F. Grabski	:	CIVIL ACTION
	:	
v.	:	
	:	
GERALD LOGAN	:	NO. 12-4978

MEMORANDUM ORDER

ELIZABETH T. HEY, U.S.M.J.

April 10, 2014

After this court's decision allowing Plaintiff to use Directive 22 to cross-examine the defense witnesses regarding what actions a reasonable officer might have undertaken in the circumstances of this case, see Doc. 37, Defendant requested permission to call a previously unidentified witness, Lieutenant Lang, to testify regarding the training on the use of force and Directive 22 at the police training academy. During a teleconference this morning, Defendant explained that he was not seeking to call Lieutenant Lang as an expert, but merely to establish that Directive 22 is a guideline and that the officers are not trained on all circumstances that may arise in the field. Plaintiff objects to the witness arguing that his testimony will amount to previously undisclosed expert testimony.

After considering the arguments from both sides, I will permit Defendant to call Lieutenant Lang provided Plaintiff is given an opportunity to depose him prior to his testimony. However, his testimony will be limited to facts regarding training. For example, he may offer factual testimony that the officers are not trained on every situation. He may not offer any opinion evidence. Specifically, he may not offer

testimony that a punch to the face is consistent with the Directive or reasonable in some circumstances. It could be unfair at this late date to bring such opinion evidence into the case, and to do so would risk confusing the jury by focusing the trial on the Directive itself rather than Defendant's actions.

And now this 10th day of April, 2014, upon consideration of Defendant's request to call Lieutenant Lang to testify, IT IS HEREBY ORDERED that the request is GRANTED to the extent Lieutenant Lang may offer factual testimony regarding the training on the use of force. He may not offer any opinion testimony.

BY THE COURT:

/s/ Elizabeth T. Hey

ELIZABETH T. HEY
UNITED STATES MAGISTRATE JUDGE