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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Eddie Ramirez,

10 Plaintiff,

11 v.

12 Kingman Hospital Incorporated, et al.,

13 Defendants.
14

No. CV-17-08026-PCT-BSB

ORDER

15 Plaintiff Eddie Ramirez has filed a motion for reconsideration in which he argues
16 that the Court's August 22, 2018 Order directing the Clerk of Court to place exhibits
17 under seal was "legally incorrect."¹ (Doc. 72.) As set forth below, the Court denies the
18 motion.

19 In the August 22, 2018 Order, the Court directed the Clerk of Court to place under
20 seal Plaintiff's exhibits submitted with his Statement of Facts in Response to Motion for
21 Summary Judgment (Doc. 68, Exhibits A-J) because the exhibits included an unredacted
22 autopsy report of a minor. (Doc. 71.)² The Court also directed Plaintiff to refile his
23 exhibits, within seven days, with the minor's name and date of birth redacted, as required
24 by Rule 5.2(a) of the Federal Rules of Civil Procedure. (*Id.*)

25 ¹ Plaintiff's motion for reconsideration does not refer to Rule 7.2(g) of the Local Rules
26 of Practice, which governs motions for reconsideration in this Court. Rule 7.2(g)
27 provides that the "Court will ordinarily deny a motion for reconsideration absent a
28 showing of manifest error" LRCiv. 7.2(g)(1). The Court construes Plaintiff's
argument that the Court's Order is "legally incorrect" as an argument that the order
contains manifest error. .

² The order was signed on August 22, 2018, and docketed on August 23, 2018.
(Doc. 71.)

1 In his motion for reconsideration, Plaintiff argues that the Court's order is
2 incorrect because the autopsy report is a public record and therefore it was exempted
3 from the redaction requirements of Rule 5.2(a). (Doc. 72 at 1-2.) Plaintiff argues that the
4 redaction exemptions in Rule 5.2(b) that apply, in part, to "the record of an administrative
5 or agency proceeding," and "the official record of a state-court proceeding" apply to the
6 autopsy report. (*Id.* (citing Fed. R. Civ. P. 5.2(b); *Schoeneweiz v. Hammer*, 221 P.3d 48,
7 52 (Ariz. Ct. App. 2009) (a report of a medical examiner is a public record)).) Plaintiff's
8 argument assumes, without any authority, that a document that is a public record should
9 be considered "the record of an administrative proceeding" or "the official records of a
10 state-court proceeding."

11 Plaintiff's argument is not supported by the plain text of Rule 5.2(b), which does
12 not include an exemption from the redaction requirement of Rule 5.2(a) for "public
13 records." *See* Fed. R. Civ. P. 5.2(b). Instead, the exemptions that Plaintiff relies upon in
14 Rule 5.2(b) refer to records of "proceedings." *See* Fed. R. Civ. P. 5.2(b)(2) and (3).
15 However, characterizing court filings as "public records" because they are prepared or
16 kept pursuant to statute does not mean these records are part of an "administrative or
17 agency proceeding" or "a state court proceeding." Plaintiff's argument ignores the word
18 "proceeding" in Rule 5.2(b)(2) and (3), and apparently interprets the rule as exempting all
19 state records or agency records from the redaction requirements. Rule 5.2(b) does not
20 support this argument.

21 Furthermore, Rule 5.2(a) states that filings with the Court that contain "an
22 individual's social security number, taxpayer-identification number, or birth date, the
23 name of an individual known to be a minor, or a financial account number" shall be
24 redacted as described in the rule. Fed. R. Civ. P. 5.2(a). Numerous "public records"
25 could include information that must be redacted under Rule 5.2(a), including birth
26 certificates, death certificates, social security cards and records, and Internal Revenue
27 Service records. Plaintiff's argument that all public records are exempt from Rule 5.2(a),
28 if accepted, would defeat the purpose of the rule to "address privacy concerns resulting

1 from public access to electronic case files.” Rule 5.2, Advisory Comm. Note (2007
2 amendments).

3 Plaintiff also argues that the autopsy report is “a public record, an agency
4 proceeding, and part of a state court record” because he asserts it was disclosed as an
5 exhibit to a disclosure statement in a state court matter without a protective order.
6 (Doc. 72 at 2.) However, documents disclosed or produced in discovery are not
7 necessarily filed in the state court record, and in many cases, the vast majority of such
8 documents are not filed in the state court record. Plaintiff has not argued that the autopsy
9 report was filed as part of the state court proceedings. Therefore, this argument also fails
10 to establish that the autopsy report falls within the redaction exemptions in Rule 5.2(b).

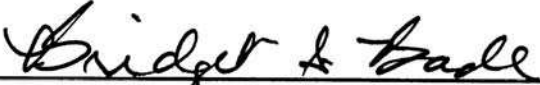
11 Finally, Plaintiff suggests that Rule 5.2(a) may not apply to the autopsy report
12 because the minor identified in that record is deceased. (Doc. 72 at 2-3.) To support that
13 argument, Plaintiff cites *Martinez v. City of Avondale*, 2014 WL 880492 at *1 (D. Ariz.
14 Mar. 6, 2014), in which the court noted that it would refer to a person by his full name in
15 an order because he was no longer a minor. (Doc. 72 at 2-3 (citing *Martinez*, 2014 WL
16 880492 at *1).) However, the *Martinez* case is inapposite and does not address the
17 application of Rule 5.2(a) to records that include identifying information about deceased
18 persons. Plaintiff cites no other authority to support this argument, and Rule 5.2(a) does
19 not state that such records are exempt from its redaction requirements.

20 For these reasons, the Court concludes that Plaintiff has not shown that the Court’s
21 August 22, 2018 error contained manifest error and denies Plaintiff’s motion for
22 reconsideration.

23 Accordingly,

24 **IT IS ORDERED** that Plaintiff’s Motion for Reconsideration (Doc. 72) is
25 **DENIED**.

26 Dated this 28th day of August, 2018.

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Bridget S. Bade
United States Magistrate Judge