

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

DAVID SCOTT HARRISON,
Plaintiff,
vs.
JAMES TILTON, et al.,
Defendants.

Case No. CV 06-7423-GW (RNB)
PROTECTIVE ORDER
Judge: Hon. George H. Wu

Having considered the Ex Parte Application of Defendants and Ironwood State Prison Warden Debra Dexter, along with the Stipulation of the Parties regarding Confidential Information to be produced in this case, the Court finds good cause for entry of a Protective Order as follows:

1. **PURPOSE AND SCOPE**

Plaintiff served a subpoena duces tecum for documents to Ironwood State Prison Warden Debra Dexter (the “Warden”); in response thereto, the Warden is producing documents deemed privileged and/or confidential, including personnel records of the defendant correctional officers, and other information designated as Official Information. Documents produced under these designations, as well as

1 information copies or extracted therefrom, including testimony, conversations, or
2 presentations by parties or counsel to or in court, shall be referred to as
3 “Confidential Information,” and shall be subject to this Protective Order.

4 2. **DURATION**

5 The confidentiality obligations imposed by this Protective Order shall
6 remain in effect even after the termination of this litigation, and shall not be lifted
7 without further order of this Court.

8 3. **DESIGNATED CONFIDENTIAL INFORMATION**

9 3.1 Each party or non-party that designates Confidential Information
10 for protection under this Protective Order shall ensure that such designation is not
11 over-broad, and applies only to those materials, documents, items, or
12 communications (or portions thereof) for which such protection is warranted.

13 3.2 Confidential Information protected by this Protective Order must
14 be clearly designated prior to the disclosure or production of such Confidential
15 Information, and must bear the notation of “Confidential” or “Attorneys’ Eyes
16 Only” on each page that contains Confidential Information.

17 3.3 An inadvertent failure to designated Confidential Information
18 does not waive the producing party’s right to secure protection under this Protective
19 Order. If the producing party discovers after production of the Confidential
20 Information that the information is lacking the appropriate designation, the
21 producing party must timely notify the receiving party, who shall make reasonable
22 effort to ensure that the Confidential Information is treated in accordance with the
23 provisions of this Order.

24 4. **TERMS AND CONDITIONS OF USE OF INFORMATION**

25 4.1 Under no circumstances shall Confidential Information be used
26 in any proceeding other than the instant case or be disseminated, in any form, except
27 by order of this Court. Confidential Information must be stored and maintained by
28

1 the receiving party at a location and in a secure manner that ensures that access is
2 limited to the person authorized under this Protective Order.

3 4.2 Confidential information and information derived therefrom may
4 not be disclosed in any form to anyone not covered under this protective order.

5 4.3 Disclosure of Confidential Information designated "Confidential"
6 shall be limited to the personnel and/or classification of persons listed below:

- 7 a. Any Party to this action and that Party's counsel;
- 8 b. staff and personnel employed by counsel for any party to
9 this action;
- 10 c. the Court and court personnel, in connection with this
11 litigation;
- 12 d. during their depositions, witnesses who, from the face of
13 the document, appear to have previously authored or received it; and,
- 14 e. experts or consultants retained/consulted to work on this
15 case by counsel for any party to this action (so long as each such expert or
16 consultant agrees, in writing, to be bound by the terms of this Protective Order).

17 4.4 Disclosure of Confidential Information designated "Attorneys'
18 Eyes Only" shall be limited to the personnel and/or classification of persons listed
19 below:

- 20 a. Counsel for any party to this action;
- 21 b. staff and personnel employed by counsel for any party to
22 this action;
- 23 c. the Court and court personnel, in connection with this
24 litigation; and
- 25 d. experts or consultants retained/consulted to work on this
26 case by counsel for any party to this action (so long as each such expert or
27 consultant agrees, in writing, to be bound by the terms of this Protective Order).

28

1 4.5 This section is not intended to limit the ability of counsel to
2 prepare Plaintiff for his deposition or for participation at trial; however, under no
3 circumstances shall Confidential Information designated "Attorneys' Eyes Only" be
4 provided directly to the Plaintiff, Inmate David Scott Harrison.

5 4.6 Counsel for any party to this action shall advise those individuals
6 to whom disclosure of Confidential Information is to be made of the contents of this
7 Protective Order, and such counsel shall obtain the consent of such individual that
8 he or she will be bound by this Protective Order, prior to disclosure of Confidential
9 Information. In the event such individual does not consent to be bound by this
10 Protective Order, no disclosure of Confidential Information shall be made to that
11 individual.

12 4.7 Any counsel, expert, consultant or investigator retained by
13 counsel for any party to this case shall not refer to Confidential Information in any
14 other court proceeding without further order of this Court.

15 4.8 Nothing in this Protective Order is intended to prevent officials
16 or employees of the California Department of Corrections and Rehabilitation or
17 other authorized individuals from having access to Confidential Information to
18 which they would have had access in the normal course of their duties.

19 4.9 The parties shall made good faith efforts to consent to the use of
20 Confidential Information, and shall meet and confer to discuss redactions of
21 particularly sensitive information before making use thereof.

22 5. **CHALLENGES TO DESIGNATIONS OF CONFIDENTIAL**
23 **INFORMATION**

24 5.1 Should a party challenge the confidentiality of information so
25 designated, that party must do so in good faith, and shall confer directly with
26 counsel for the producing party.

27 5.2 If the parties are unable to resolve the designation informally, the
28 party challenging the designation may file and serve a motion under Civil Local

1 Rule 7 (an in compliance with Civil Local Rule 79-5, if applicable), identifying the
2 basis for the challenge. The burden of persuasion in any such challenge proceeding
3 shall be on the Designating Party. The designation of the challenged information
4 shall remain unchanged under the Court rules on the challenge.

5 6. **UNAUTHORIZED DISCLOSURE OF CONFIDENTIAL**
6 **INFORMATION**

7 If a receiving party learns that it has disclosed Confidential Information
8 to any person or entity not authorized to receive such information pursuant to this
9 Protective Order, the receiving party shall immediately (a) notify the producing
10 party of the unauthorized disclosure, including identification of the person or entity
11 to whom such unauthorized disclosure was made, (b) retrieve all copies of the
12 Confidential Information from the unauthorized recipient, (c) inform the
13 unauthorized recipient of the terms of this Protective Order and request that they
14 agree, in writing, to be bound hereto. Should the Court determine that the receiving
15 party intentionally disclosed Confidential Information to an unauthorized party, the
16 Court may consider the imposition of sanctions, including but not limited to
17 monetary sanctions and/or issue preclusion.

18 Under no circumstances shall the receiving party file in the public
19 record any Confidential Information, without written permission from the producing
20 party or an Order of this Court, and only upon timely written notice to all interested
21 parties. The parties shall made good faith efforts to consent to the use of
22 Confidential Information, and shall meet and confer to discuss redactions of
23 particularly sensitive information

24 7. **RIGHT TO ASSERT OBJECTIONS**

25 By the entry of this Protective Order, the parties are not waiving any
26 rights that they might otherwise have to objecting to disclosure or production of
27 information on any ground not addressed herein. The parties do not waive any right
28 to object to the use in evidence of the material covered by this Protective Order.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IT IS SO ORDERED.

Dated: Nov. 20, 2008



The Honorable George H. Wu
United States District Court Judge