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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARCO DE PUENTE-HUDSON,)
)
 Plaintiff,)
)
 vs.)
)
 DERRAL G. ADAMS, et al.,)
)
 Defendants.)
)
 _____)

1:08-cv-01228-OWW-GSA-PC

ORDER GRANTING MOTION
TO RECEIVE CONFIDENTIAL
DOCUMENTS UNDER SEAL AND
FOR IN CAMERA REVIEW
(Doc. 41.)

ORDER DIRECTING CLERK TO SEAL
DOCUMENTS

I. BACKGROUND

Jimmy Marco De Puente-Hudson ("Plaintiff") is a state prisoner proceeding pro se with this civil rights action under 42 U.S.C. § 1983. Defendant Derral G. Adams removed this action from the Kings County Superior Court on August 19, 2008. (Doc. 1.) This action now proceeds on Plaintiff's complaint against defendant Adams ("Defendant"), for violation of Plaintiff's rights under the First Amendment of the United States Constitution, based on allegations that Defendant unlawfully prevented Plaintiff from receiving issues of magazines.¹ On March 24, 2010, Defendant filed a motion for summary judgment and a motion for the court to receive confidential documents under seal and for in camera review. (Docs. 40, 41.) Defendant's motion to seal documents is now before the court.

II. MOTION TO SEAL DOCUMENTS

Most courts recognize a presumption of public access to court records based on common law and First Amendment grounds. The public therefore normally has the right to inspect and copy documents

¹All other claims were dismissed from this action by the court on February 19, 2009. (Doc. 18.)

1 filed with the court. See Nixon v. Warner Comm., Inc., 435 U.S. 589, 597-98 (1978); Globe Newspaper
2 v. Superior Court for Norfolk County, 457 U.S. 596, 603 (1982); Phillips ex rel. Estates of Byrd v.
3 General Motors Corp., 307 F.3d 1206, 1212 (9th Cir. 2002). However, public access may be denied
4 where the court determines that court-filed documents may be used for improper purposes. Nixon, 435
5 U.S. at 598; Hagestad v. Tragesser, 49 F.3d 1430, 1433-1434 (9th Cir. 1995). Courts should consider
6 “the interests advanced by the parties in light of the public interest and the duty of the courts.” Id. at
7 1434 (*quoting Nixon*, 435 U.S. at 602). The Supreme Court has acknowledged that the decision to seal
8 documents is “one best left to the sound discretion of the trial court, a discretion to be exercised in light
9 of the relevant facts and circumstances of the particular case.” Id. at 599. After taking all relevant
10 factors into consideration, the district court must base its decision on a compelling reason and articulate
11 the factual basis for its ruling, without relying on hypothesis or conjecture. Hagestad, 49 F.3d at 1434.
12 Local Rule 141 allows the court to seal documents only upon written order. L. R. 141(a). Generally,
13 the contents of such documents are of a nature that require the court to maintain the confidentiality of
14 the document. For example, the contents may reveal information that may jeopardize the safety of
15 particular individuals.

16 Defendant moves the court to review in camera and file under seal “for one hundred years”
17 Attachment 2 to Defendant’s Exhibit C of Defendant’s Exhibits in Support of his Cross Motion for
18 Summary Judgment. Defendant has submitted documents consisting of unredacted copies of magazine
19 articles which were withheld from Plaintiff because they contain gang information and pictures that
20 violate institutional security interests. These documents serve to support Defendant’s motion for
21 summary judgment of Plaintiff’s lawsuit alleging that Defendant unlawfully prevented him from
22 receiving issues of magazines.

23 Defendant contends that it is necessary for the court to review the documents to determine
24 whether the prison had a legitimate governmental interest in keeping them from the inmate population.
25 Defendant argues that disclosure of the unredacted documents would be against the public interest
26 because the need for keeping contraband out of prisons outweighs any necessity for disclosure.
27 Defendant has served a redacted copy on Plaintiff.

1 **III. DISCUSSION**

2 The court does not seal case documents or exhibits from public view without good cause. Here,
3 Defendant represents that the information contained in the submitted documents violates institutional
4 security interests and was designated contraband and kept from the inmate population. The court has
5 made an in camera review of the documents, for information of a nature that clearly would require the
6 court to maintain confidentiality. The court finds that the unredacted documents contain information
7 and pictures which may be used for improper purposes by Plaintiff and other inmates. Defendant has
8 given a compelling reason for the court to seal these documents, based on the prison's interest in keeping
9 contraband from inmates. The court agrees that in this case the disclosure of the unredacted documents
10 would be against the public interest because the need for keeping contraband out of prisons outweighs
11 any necessity for disclosure. It is the practice of this court to maintain case documents under seal for
12 an undetermined time period, until they are ordered unsealed by the court. Accordingly, the court shall
13 grant Defendant's motion and direct the Clerk of Court to seal the case documents submitted by
14 Defendant as Attachment 2 to Defendant's Exhibit C of Defendant's Exhibits in Support of his Cross
15 Motion for Summary Judgment, until they are ordered unsealed by the court.

16 **IV. CONCLUSION**

17 Based on the foregoing, IT IS HEREBY ORDERED that:

- 18 1. Defendant's motion for the court to receive confidential documents under seal and for in
19 camera review is GRANTED; and
- 20 2. The Clerk of Court is DIRECTED to seal the case documents submitted by Defendant
21 on March 24, 2010, as Attachment 2 to Defendant's Exhibit C of Defendant's Exhibits
22 in Support of his Cross Motion for Summary Judgment, until they are ordered unsealed
23 by the court.

24
25 IT IS SO ORDERED.

26 Dated: April 21, 2010

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE