

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

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

GORDON DALE MEADOR,

Plaintiff,

v.

K. AYE, et al.,

Defendants.

Case No. 1:14-cv-00006-DAD-EPG (PC)

ORDER ON PLAINTIFF’S EX PARTE
AND CONFIDENTIAL
COMMUNICATION

FOURTEEN DAY DEADLINE

Gordon Meador ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On April 5, 2017, the Court received a document from Plaintiff marked “Confidential” and “Ex Parte Communication.” The Court will not address an *ex parte* submission from Plaintiff that is not placed on the record. Any communications from one party to the court must include the other party, except under very limited circumstances.

The Court is currently holding Plaintiff’s document and requests that Plaintiff notify the Court how to proceed, as discussed below.

The Plaintiff has three option: 1) Notify the Court in writing that the document may be docketed and disclosed to all parties; 2) Notify the Court in writing that Plaintiff does not want the document to be docketed and disclosed to all parties, in which case the Court will return the document to Plaintiff; or 3) File a motion to seal the document, which will seal the document

1 from the public, but allow the other parties to see the document. There is no option that will
2 allow Plaintiff to communicate about the case to the Judge without disclosing it to the other
3 parties.

4 The following is the law related to a motion to seal, which again would keep the document
5 confidential from the public but allow all parties to see it:

6 Unless a particular court record is one “traditionally kept secret,” a
7 “strong presumption in favor of access” is the starting point. Foltz,
8 331 F.3d at 1135 (citing Hagestad v. Tragesser, 49 F.3d 1430, 1434
9 (9th Cir.1995)). A party seeking to seal a judicial record then bears
10 the burden of overcoming this strong presumption by meeting the
11 “compelling reasons” standard. Foltz, 331 F.3d at 1135. That is,
12 the party must “articulate[] compelling reasons supported by
13 specific factual findings,” id. (citing San Jose Mercury News, Inc.
14 v. U.S. Dist. Ct., 187 F.3d 1096, 1102–03 (9th Cir.1999)), that
15 outweigh the general history of access and the public policies
16 favoring disclosure, such as the “ ‘public interest in understanding
17 the judicial process.’ ” Hagestad, 49 F.3d at 1434 (quoting EEOC
18 v. Erection Co., 900 F.2d 168, 170 (9th Cir.1990)). In turn, the
19 court must “conscientiously balance[] the competing interests” of
20 the public and the party who seeks to keep certain judicial records
21 secret. Foltz, 331 F.3d at 1135. After considering these interests, if
22 the court decides to seal certain judicial records, it must “base its
23 decision on a compelling reason and articulate the factual basis for
24 its ruling, without relying on hypothesis or conjecture.” Hagestad,
25 49 F.3d at 1434 (citing Valley Broadcasting Co. v. U.S. Dist. Ct.,
26 798 F.2d 1289, 1295 (9th Cir.1986)).

27 In general, “compelling reasons” sufficient to outweigh the public's
28 interest in disclosure and justify sealing court records exist when
such “court files might have become a vehicle for improper
purposes,” such as the use of records to gratify private spite,
promote public scandal, circulate libelous statements, or release
trade secrets. Nixon, 435 U.S. at 598, 98 S.Ct. 1306; accord Valley
Broadcasting Co., 798 F.2d at 1294. The mere fact that the
production of records may lead to a litigant's embarrassment,
incrimination, or exposure to further litigation will not, without
more, compel the court to seal its records. Foltz, 331 F.3d at 1136.

Kamakana v. City & Cty. of Honolulu, 447 F.3d 1172, 1178–79 (9th Cir. 2006).

///

///

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

Accordingly, based on the foregoing, IT IS ORDERED that within fourteen (14) days from the date of service of this order, Plaintiff shall either: 1) Notify the Court in writing that he wants the document to be docketed, in which case the Court will address it in due course; 2) Notify the Court in writing that he does not want the document to be docketed, in which case the Court will return the document to Plaintiff; or 3) File a motion to seal the document, which the Court will consider under the law discussed above.

If Plaintiff fails to comply with this order the Court will return the document to Plaintiff.
IT IS SO ORDERED.

Dated: April 6, 2017

/s/ Eric P. Shroy
UNITED STATES MAGISTRATE JUDGE