

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  
EASTERN DISTRICT OF CALIFORNIA

ROBERT DEWAYNE BOSLEY, JR.,  
Plaintiff,  
v.  
M. VALASCO, et al.,  
Defendants.

Case No. 1:14-cv-00049-MJS (PC)

**ORDER DENYING PLAINTIFF'S  
MOTION TO COMPEL AND DENYING  
DEFENDANT'S MOTION FOR  
PROTECTIVE ORDER  
(ECF Nos. 40, 52, 64)**

Plaintiff is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This matter is before the undersigned pursuant to the consent of the parties. (ECF Nos. 4, 26.)

On April 28, 2016, the undersigned granted in part Plaintiff's motion to compel release of Defendant's personnel file after having overruled Defendant's privacy and official information privilege objections. (ECF Nos. 40, 52.) Pursuant to that Order, Defendant was directed to submit an unredacted copy of his personnel file for *in camera* review. Defendant timely submitted the personnel file and now moves for a protective order regarding the release of the file. (ECF No. 64.)

The Court's *in camera* review of the documents falling within the scope of Plaintiff's request for production reveals only one matter having any conceivable relevance to the issues in this case, namely a complaint about the behavior of

1 Defendant Valasco toward another inmate in custody. The complaint contains an  
2 allegation, related by the inmate's mother, that Defendant was "verbally abusive" toward  
3 the inmate in 2013. This complaint was the subject of an Internal Affairs investigation.  
4 The investigation resulted in a finding that the charges were not substantiated.

5 The Court concludes that while the said 2013 complaint has some potential  
6 relevance to the issues raised in the instant complaint, any attempt to introduce  
7 evidence pertaining thereto would necessitate a trial within a trial to enable the trier-of-  
8 fact to determine, first, whether there was any merit to the 2013 complaint and, if so,  
9 whether it had any potential relevance to the issues in this case. The Court concludes  
10 that any possible probative value of evidence relating to this old complaint would be far  
11 outweighed by the probability that its introduction would confuse the issues, possibly  
12 prejudice the Defendant, mislead the jury, and cause undue delay and waste of time; as  
13 such, any such evidence would be excluded in accordance with Federal Rule of  
14 Evidence 403.

15 Given this ruling and the absence of any other records with any potential  
16 relevance to this case, the Court will deny Plaintiff's request for production of the  
17 requested records.

18 Accordingly, IT IS HEREBY ORDERED that:

- 19 1. The Court's April 28, 2016, Order granting in part Plaintiff's motion to compel  
20 (ECF No. 52) is modified as follows: Plaintiff's motion to compel is DENIED in  
21 its entirety, and Defendant will not be compelled to produce any documents  
22 included in his personnel file; and  
23 2. Defendant's May 3, 2016, motion for protective order (ECF No. 64) is  
24 DENIED as moot.

25 IT IS SO ORDERED.

26 Dated: May 11, 2016

27 /s/ Michael J. Seng  
28 UNITED STATES MAGISTRATE JUDGE

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

3.