

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
FOR THE EASTERN DISTRICT OF CALIFORNIA

PATRICIA A. MCCOLM,
Plaintiff,
v.
STATE OF CALIFORNIA, *et al.*,
Defendants.

Case No. 1:14-cv-00580-LJO-JDP
ORDER GRANTING MOTION TO SEAL
ECF No. 84
FINDINGS AND RECOMMENDATIONS
THAT THE MOTION SEEKING RELIEF
FROM, OR ALTERATIONS TO, THE
JUDGMENT BE DENIED
OBJECTIONS, IF ANY, DUE WITHIN 14
DAYS
ECF No. 83

Plaintiff Patricia A. McColm is a former prisoner proceeding in this now-closed civil rights action under 42 U.S.C. § 1983, the Americans with Disabilities Act (“ADA”), and § 504 of the Rehabilitation Act (“RA”). On September 11, 2019, the court dismissed the case based on plaintiff’s repeated failures to cure pleading deficiencies and to comply with court orders. ECF No. 81. On October 8, 2019, plaintiff filed a motion seeking relief from, or alterations to, that judgment, ECF No. 83, as well as a motion to seal medical documents offered in support of the motion to amend, ECF No. 84. For the reasons below, the court will grant plaintiff’s motion to seal and recommend to the district judge that the motion seeking relief from, or alterations to, the judgment be denied.

1 **DISCUSSION**

2 ***Motion to Seal***

3 The legal standard for a motion to seal turns “on whether the motion is more than
4 tangentially related to the merits of a case.” *Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d
5 1092, 1101 (9th Cir. 2016). In general (though not always), this circuit treats “judicial records
6 attached to dispositive motions differently from records attached to non-dispositive motions.”
7 *Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1180 (9th Cir. 2006). Requests to seal
8 documents attached to dispositive motions will be granted only if “compelling reasons” for
9 sealing are shown; requests to seal documents attached to most non-dispositive motions will be
10 granted if supported by “good cause.” *Id.*

11 Reasonable minds might disagree as to whether a motion seeking relief from, or
12 alterations to, the judgment in an already-closed case is best characterized as “dispositive.”
13 However, we need not resolve this question: even if the underlying motion is dispositive or “more
14 than tangentially related to the merits of a case,” the plaintiff’s interest in protecting medical
15 privacy constitutes a compelling reason to seal the records in this instance. *See Williams v.*
16 *Nevada Dep’t of Corr.*, No. 2:13-CV-941, 2014 WL 3734287, at *1 (D. Nev. July 29, 2014)
17 (gathering cases and noting that “the need to protect medical privacy has qualified as a
18 ‘compelling reason,’ for sealing records in connection with a dispositive motion”). The court will
19 therefore grant plaintiff’s motion to seal.

20 ***Motion Seeking Relief From, or Amendment to, the Judgment***

21 The party seeking relief from a judgment under Rule 60(b) of the Federal Rules of Civil
22 Procedure must show that one of the specifically enumerated conditions is present or that there
23 are “extraordinary circumstances” justifying the reopening of a final judgment under Rule
24 60(b)(6), which contemplates “any other reason that justifies relief.” *See Gonzalez v. Crosby*, 545
25 U.S. 524, 535 (2005). Here, plaintiff fails to identify any specific conditions that warrant relief,
26 and her medical attachments do not show the kind of extraordinary circumstances that would
27 explain the numerous delays over almost six years of litigation. Plaintiff’s motion recapitulates
28 arguments that she has stated numerous times previously. *See, e.g.*, ECF Nos. 67, 72, 73, 76, 77,

1 80.

2 Altering or amending a judgment under Rule 59(e) is an “extraordinary remedy, to be
3 used sparingly in the interests of finality and conservation of judicial resources.” *Kona Enters.,
4 Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000). A motion for such relief “should not
5 be granted, absent highly unusual circumstances, unless the district court is presented with newly
6 discovered evidence, committed clear error, or if there is an intervening change in the controlling
7 law.” *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir.1999) (en banc) (per curiam)
8 (internal quotation marks and citations omitted). As stated above, plaintiff has identified no such
9 unusual or extraordinary circumstances here.

10 **FINDINGS AND RECOMMENDATIONS**

11 For the reasons stated above, the undersigned recommends that plaintiff’s motion seeking
12 relief from, or alterations to, the judgment, be denied.

13 The undersigned submits the findings and recommendations to the district judge presiding
14 over this case under 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local Rules of Practice for the
15 United States District Court, Eastern District of California. Within 14 days of the service of the
16 findings and recommendations, plaintiff may file written objections to the findings and
17 recommendations with the court and serve a copy on all parties. That document should be
18 captioned “Objections to Magistrate Judge’s Findings and Recommendations.” The district judge
19 will review the findings and recommendations under 28 U.S.C. § 636(b)(1)(C).

20 **ORDER**

21 Plaintiff’s motion to seal, ECF No. 84, is granted. The clerk of court is directed to file the
22 attached medical records under seal as Exhibits to the Motion at ECF No. 84.

23
24 IT IS SO ORDERED.

25 Dated: January 16, 2020

26 
27 UNITED STATES MAGISTRATE JUDGE
28

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

No. 205.