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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BERNARD L. SMITH,  
Plaintiff,  
v.  
CALIFORNIA STATE PRISON  
SACRAMENTO, et al.,  
Defendants.

No. 2:12-cv-00024 MCE AC P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. This action was initiated on November 28, 2011. ECF No. 1. On August 15, 2014, the court issued an order dismissing the case and judgment was entered. ECF Nos. 43, 44. On March 18, 2015, plaintiff filed a motion requesting that his case be “unpublished.” ECF No. 46. The court construes this motion as a motion to seal the case.

Pursuant to common law and the First Amendment, the public normally has the right to inspect and copy documents filed with the court. See Nixon v. Warner Comm., Inc., 435 U.S. 589, 597-98 (1978); Globe Newspaper v. Superior Court for Norfolk County, 457 U.S. 596, 603 (1982); Phillips ex rel. Estates of Byrd v. General Motors Corp., 307 F.3d 1206, 1212 (9th Cir. 2002). However, public access may be denied where the court determines that court-filed documents may be used for improper purposes. Nixon, 435 U.S. at 598; Hagestad v. Tragesser, 49 F.3d 1430, 1433-1434 (9th Cir. 1995). Courts should consider “the interests advanced by the

1 parties in light of the public interest and the duty of the courts.” Id. at 1434 (quoting Nixon, 435  
2 U.S. at 602). The Supreme Court has acknowledged that the decision to seal documents is “one  
3 best left to the sound discretion of the trial court, a discretion to be exercised in light of the  
4 relevant facts and circumstances of the particular case.” Nixon, 435 U.S. at 599. “After taking  
5 all relevant factors into consideration, the district court must base its decision on a compelling  
6 reason and articulate the factual basis for its ruling, without relying on hypothesis or conjecture.”  
7 Hagestad, 49 F.3d at 1434 (citing Valley Broad. Co. v. United States Dist. Court., 798 F.2d 1289,  
8 1295 (9th Cir. 1986)). “Documents may be sealed only by written order of the Court, upon the  
9 showing required by applicable law.” Local Rule 141(a). Generally, the content of sealed  
10 documents is of a nature that requires the court maintain its confidentiality. For example, the  
11 contents may reveal information that may jeopardize the safety of particular individuals.

12 The facts and allegations that make up this case, including plaintiff’s medical conditions,  
13 have been a matter of public record since the Clerk of the Court first entered the complaint on the  
14 docket on December 7, 2011.<sup>1</sup> If the court considers the lawsuit that preceded the instant case,  
15 some of plaintiff’s issues have been a matter of public record since as early as April 1, 2010.<sup>2</sup> See  
16 Smith v. California State Prison – Sacramento, 2:10-cv-00766 KJM DAD P, at ECF No. 1.

17 Plaintiff now argues that the publishing of this case “has caused his medical confidentiality to be  
18 exposed to his daughter” and that it is causing the inmates at the prison where he is housed to  
19 “laugh and outcast the plaintiff.” ECF No. 46. He claims that he “is facing extreme inmate  
20 population retaliation due to the publishing of this case” and that it creates a danger to him. Id.  
21 Plaintiff put his medical conditions at issue and in public view by filing a lengthy complaint and  
22 first amended complaint outlining his medical issues (ECF Nos. 1, 14), and even though the facts  
23 associated with this case have been a matter of public record for at least three years, he has not  
24 articulated any specific harm he has suffered, other than some embarrassment. ECF No. 46.

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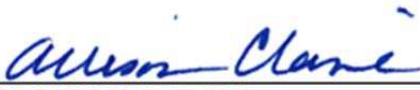
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27 <sup>1</sup> The complaint in this case was originally filed as a second amended complaint in Smith v.  
California State Prison – Sacramento, 2:10-cv-00766 KJM DAD P, at ECF No. 59.

28 <sup>2</sup> Plaintiff’s original case was dismissed for failure to exhaust his administrative remedies and the  
instant case was initiated after his administrative remedies were exhausted. Id., at ECF No. 60.

1           The court is faced with cases similar to plaintiff's on a daily basis, which are maintained  
2 on the public record. The general prevention of harassment or ill will, or some unspecified  
3 potential future harm, is not sufficient reason to deny public access, especially in light of how  
4 long this case has already been a part of the public record. The Ninth Circuit has held that there is  
5 a strong presumption of public access to judicial records. See Kamakana v. City & County of  
6 Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006); Foltz v. State Farm Mut. Auto. Ins. Co., 331 F.3d  
7 1122, 1135 (9th Cir. 2003). A party seeking to file documents under seal bears the burden of  
8 overcoming that presumption. Kamakana, 447 F.3d at 1178. "The mere fact that the production  
9 of records may lead to a litigant's embarrassment . . . will not, without more, compel the court to  
10 seal its records." Id. at 1179 (citing Foltz, 331 F.3d at 1136). Plaintiff has not met his burden and  
11 his motion to seal the case will be denied.

12           Accordingly, IT IS HEREBY ORDERED that plaintiff's motion to seal the case (ECF No.  
13 46) is DENIED.

14 DATED: May 1, 2015

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16 ALLISON CLAIRE  
17 UNITED STATES MAGISTRATE JUDGE  
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