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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

SALVADOR CERVANTES,  
Petitioner,  
v.  
SHREW SHERMAN,  
Respondent.

No. 2:16-cv-1837-EFB P

ORDER

Petitioner is a state prisoner without counsel seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition asserts a claim based on ineffective assistance of counsel. ECF No. 1. In a filing entitled, “Request for Deferral of Briefing and for Order as to State Court *Marsden* Hearing Transcript,” (ECF No. 9) respondent states that a sealed transcript from a proceeding in state court is reasonably likely to be helpful in this action. On this basis, respondent seeks a court order directing that respondent ask the California Court of Appeal to transmit, to this court under seal, the sealed transcript at issue. As explained below, the request is denied.

Local Rule 141 governs requests to seal documents. E.D. Cal. L.R. 141. That rule provides that documents may be sealed by order of the court upon the showing required by law. L.R. 141(a). It requires the party making the request to “set forth the statutory or other authority for sealing, the requested duration, the identity, by name or category, of persons to be permitted access to the other documents, and all other relevant information.” L.R. 141(b).

1           The “showing required by law” referred to by our Local Rule is a high one. The court  
2 operates under a strong presumption in favor of access to court records. *Ctr. for Auto Safety v.*  
3 *Chrysler Group, LLC*, 809 F.3d 1092, 1096 (2016). Accordingly, a party seeking to file  
4 something under seal must present “compelling reasons” supporting the request. *Id.* The  
5 compelling reasons standard requires the court to: (1) find a compelling reason supporting sealing  
6 the record and (2) articulate the factual basis for the sealing the record, without relying on  
7 hypothesis or conjecture. *Id.* at 1096-97. The court must conscientiously balance the competing  
8 interests of the public and the party who wishes to keep the documents private. *Id.* at 1097.  
9 “What constitutes a ‘compelling reason’ is ‘best left to the sound discretion of the trial court.’”  
10 *Id.* (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 599 (1978)). Some examples of  
11 records for which there are compelling reasons to seal are: (1) records that could be used to  
12 gratify private spite or promote public scandal; (2) records containing libelous statements; and (3)  
13 records that contain business information that could be used to harm a litigant’s competitive  
14 standing. *Id.*

15           Respondent has not provided any reason for sealing the transcript from the state court  
16 proceeding. As respondent notes, however, the transcript may be helpful to the parties and the  
17 court in this action. Therefore, briefing in this court is deferred pending respondent’s receipt of  
18 the transcript. If respondent wishes to include all or a portion of the transcript with his response  
19 to the petition, and believes that access to the transcript ought to be limited in any way, he may  
20 file a motion to seal or a motion for protective order, as appropriate.

21           Accordingly, IT IS HEREBY ORDERED that:

22           1. Respondent’s request for a court order directing respondent to ask the California  
23 Court of Appeal to transmit a copy of the transcript of to this Court, for filing under seal (ECF  
24 No. 9), is denied;

25           2. Briefing in this court is deferred pending respondent’s receipt of the transcript; and

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3. Respondent shall file a status report within 60 days from the date of this order.

DATED: October 31, 2016.

  
EDMUND F. BRENNAN  
UNITED STATES MAGISTRATE JUDGE