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United States District Court
Northern District of California

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

SHIKEB SADDOZAI,

Plaintiff,

v.

A. ARQUEZA,

Defendant.

Case No. 18-cv-03972 BLF (PR)

**ORDER GRANTING MOTION FOR
ENTRY OF PROTECTIVE ORDER;
GRANTING MOTION TO SEAL
DOCUMENTS; GRANTING
MOTION FOR EXTENSION OF
TIME TO FILE OPPOSITION;
TERMINATING OTHER MOTIONS**

(Docket Nos. 65, 66, 68, 69, 70, 75)

Plaintiff, a state prisoner, filed the instant *pro se* civil rights action pursuant to 42 U.S.C. § 1983. This matter was reopened on remand, and deceased Defendant A. Arqueza has been substituted by his successor, Ms. Terry Arqueza, in this action. Dkt. Nos. 50, 52.

On October 21, 2022, Defendant filed an administrative motion for entry of protective order, Dkt. No. 65, and the proposed protective order, Dkt. No. 66. On November 14, 2022, Defendant filed notice of Plaintiff’s non-opposition to their motion. Dkt. No. 14. On November 15, 2022, Defendant filed an administrative motion to seal documents in support of their summary judgment motion and renewed motion for protective order. Dkt. Nos. 69, 70. At the same time, Defendants filed a motion for summary judgment. Dkt. No. 71.

Because it appeared that Plaintiff was out to court and may not have received his

1 latest mail, Dkt. No. 67, the Court allowed the matter to remain pending for Plaintiff to
2 return and respond to the latest filings. Plaintiff did so on December 2, 2022, by filing a
3 motion for an extension of time to file opposition to Defendants' summary judgment and
4 request for judicial notice, Dkt. No. 75, and an opposition to Defendant's proposed
5 protective order, Dkt. No. 76. Defendant filed opposition to Plaintiff's request for an
6 extension of time, Dkt. No. 78, and a reply to their motion for entry of protective order,
7 Dkt. Nos. 79. The Court addresses these pending motions below.

8 9 DISCUSSION

10 A. Motion for Entry of Protective Order

11 Defendant requests that the Court adopt their proposed Protective Order pursuant to
12 Local Rule 7-11, so that Defendant may designate and produce certain confidential records
13 in discovery to Plaintiff. Dkt. No. 65 at 2. Defendant states that some of the discovery
14 Plaintiff seeks include sensitive information related to the non-public, detailed operations
15 of Maguire Correctional Facility, including records that may disclose confidential details
16 about jail staffing, facility layouts, and security procedures. *Id.* Defendant reached out to
17 Plaintiff by mail, asking if he would stipulate to use the Court's model Stipulated
18 Protective Order. Trela Decl. ¶ 3, Ex. A; Dkt. No. 65-1. Defendant's counsel indicated
19 that if she did not hear from Plaintiff by October 21, 2022, she would move the Court to
20 implement the model protective order so she could produce confidential records in
21 discovery. *Id.* When she did not hear from Plaintiff, counsel proceeded to file the instant
22 request on October 21, 2022.

23 The Court notes that on October 29, 2022, mail sent to Plaintiff was returned as
24 undeliverable, with the notation, "Inmate out to court." Dkt. No. 67. This is confirmed by
25 Plaintiff's motion for an extension of time filed on December 2, 2022, wherein he states he
26 was transported from prison to San Mateo Superior Court on or about October 13, 2022,
27 and then returned on October 24, 2022. Dkt. No. 75 at 3. Plaintiff also filed an opposition
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1 to Defendant’s request for entry of protective order. Dkt. No. 76. He asserts that when he
2 returned, the facility was placed on a 7-day lockdown until November 2022. *Id.* at 4. He
3 moves the Court for an order compelling production of discovery, including documents,
4 video surveillance, and admissions. *Id.* at 1-2. It appears that Plaintiff is unclear about the
5 purpose of the protective order. As Defendant points out in reply, Plaintiff simply
6 contends that he should be given access to responsive documents, on which point
7 Defendant agrees. Dkt. No. 79 at 2.

8 Federal Rule of Civil procedure 26(c) provides that a party “from whom discovery
9 is sought may move for a protective order in the court where the action is pending.” The
10 Court finds good cause exists due to the confidential and sensitive nature of some of the
11 documents requested in discovery to grant the request. Defendant submits the Northern
12 District of California’s Model Protective Order, Dkt. No. 65-1, and states that he will
13 follow appropriate procedures under Local Rule 79-5 and Standing Order § 5 and properly
14 move to seal any confidential records that it intends to file on the docket. Dkt. No. 65 at 2.
15 Defendant has done so, having since filed an administrative motion to seal documents in
16 support of his motion for summary judgment. Dkt. Nos. 69, 70. Accordingly, Defendant’s
17 motion for entry of protective order pursuant to Rule 26(c) is GRANTED. Dkt. No. 65.
18 The Court will adopt Defendant’s proposed order submitted with their motion. Dkt. No.
19 66

20 Plaintiff is advised that the protective order does not interfere with his right to
21 discovery. It merely requires that Plaintiff comply with the procedures set forth in the
22 protective order with regard to any protected material provided to him by Defendant.
23 Accordingly, he must abide by the protective order throughout and after final disposition
24 of this action. Dkt. No. 66.

25 **B. Motion to Seal Documents**

26 Consistent with his motion for entry of a protective order, Defendant filed an
27 administrative motion to seal documents in support of his motion for summary judgment.
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1 Dkt. No. 70. The request is made on the basis that: (1) Plaintiff's medical information is
2 presumptively entitled to privacy, subject to Plaintiff's decision to waive those protections
3 (Exs. 1-7); (2) the law enforcement officer personnel history information is entitled to
4 protection as official information (Ex. 8); and (3) the jail surveillance footage would pose
5 an institutional security risk if publicly disclosed and would violate the privacy of third-
6 party inmates (Ex. 9). *Id.* at 2. Defendant seeks to designate the law enforcement officers'
7 personnel history information and jail surveillance footage as confidential under the
8 protective order and will serve the sealed version of those exhibits on Plaintiff once the
9 protective order is in place. *Id.* Plaintiff has not filed an objection to this motion.

10 The Court has considered Defendant's motion, including the exhibits at issue
11 submitted for *in camera* review, and the declarations of Lt. D. Guiney of the San Mateo
12 County Sheriff's Office and Deputy County Attorney Sarah H. Trela filed in support of
13 Defendant's sealing request. Dkt. Nos. 69-1, et seq. Defendant has established that there
14 are compelling reasons that outweigh disclosure to the public. *See* L.R. 79-5(b), (g).
15 Accordingly, Defendant's administrative motion to file the specified exhibits under seal is
16 GRANTED. Dkt. No. 70. Defendant shall serve the sealed copies on Plaintiff.

17 **C. Plaintiff's Motion for Extension of Time and Request for Judicial Notice**

18 Plaintiff has filed a motion for an extension of time to file opposition to Defendant's
19 summary judgment motion. Dkt. No. 75. He requests an extension until February 28,
20 2023. *Id.* at 4. Plaintiff also requests the Court take judicial notice of grievances he filed
21 while in the custody of the San Mateo County Sheriff's office. *Id.* at 4. Defendant objects
22 to such a lengthy extension of time and suggests that 30 days would be appropriate under
23 the circumstances. Dkt. No. 78 at 2. Defendant also objects to the Court taking judicial
24 notice of unauthenticated pages of matters that are unrelated both to the claims in this
25 action and Plaintiff's need for an extension of time. *Id.*

26 The Court need not take judicial notice of the papers provided with Plaintiff's
27 motion as they are irrelevant to his motion and beyond the scope of this action.
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1 Accordingly, that request is DENIED. On the other hand, good cause appearing,
2 Plaintiff's motion for extension of time is GRANTED IN PART. Defendant shall file
3 notice that he has served Plaintiff with the sealed versions of the exhibits in support of his
4 summary judgment in the time provided below. Plaintiff's opposition shall be due twenty-
5 eight days thereafter.

6
7 **CONCLUSION**

8 For the foregoing reasons, the Court orders as follows:

9 1. Defendant's motion for entry of protective order is **GRANTED**. Dkt. No.
10 65. The Court shall adopt the proposed protective order submitted by Defendant. Dkt. No.
11 66. Defendant's notice of non-opposition shall be terminated as a motion. Dkt. No. 68.

12 2. Defendant's motion to seal documents in support of his motion for summary
13 judgment is **GRANTED**. Dkt. Nos. 69, 70.

14 3. Defendant shall serve Plaintiff with a copy of the sealed exhibits in support
15 of his summary judgment motion **no later than seven (7) days** from the date this order is
16 filed. On the same day, Defendant shall file notice with the Court that he has done so with
17 a copy of the certificate of service.

18 3. Plaintiff's motion for an extension of time to file opposition to Defendant's
19 summary judgment is **GRANTED IN PART**. Dkt. No. 75.

20 Plaintiff's opposition shall be due **no later than twenty-eight (28) days** from the
21 date Defendant files notice of service of the sealed exhibits discussed above on Plaintiff.
22 Plaintiff's motion for judicial notice is **DENIED**.

23 4. Defendant *shall* file a reply brief no later than **fourteen (14) days** after
24 Plaintiff's opposition is filed.

25 This order terminates Docket Nos. 65, 66, 68, 69, 70, and 75.

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United States District Court
Northern District of California

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IT IS SO ORDERED.

Dated: January 17, 2023


BETH LABSON FREEMAN
United States District Judge

Order Granting Protective Order; to Seal; Terminating Other Mots.
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