

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 14-cv-00245-MSK-MJW

REVEREND MATT HALE,

Plaintiff,

v.

FEDERAL BUREAU OF PRISONS,

Defendant.

DEFENDANT’S MOTION FOR ENTRY OF PROTECTIVE ORDER

Pursuant to Fed. R. Civ. P. 26(c), Defendant respectfully moves for entry of a protective order regulating the use and disclosure of documents and materials produced in connection with the discovery process in this case.

CERTIFICATION REGARDING CONFERRAL

Although Plaintiff is an unrepresented prisoner, undersigned counsel did consult with Plaintiff by telephone before filing this motion. *See* Fed. R. Civ. P. 26(c)(1). Plaintiff opposes the entry of a protective order in this case. *See* Scheduling Order, Doc. 73 at 7 (referencing Plaintiff’s position).

MOTION

Plaintiff is a federal inmate incarcerated at the ADX. He was the leader of an organization that now goes by the name “Creativity Movement.” *Hale v. United States*, 710 F.3d 711, 712 (7th Cir. 2013), *cert. denied*, 134 S. Ct. 333 (2013); *see also Hale v. United States*, No. 1:08 CV 94, 2010 WL 2921634, *1 (N.D. Ill. July 22, 2010). Plaintiff and this group have a history of violence. Plaintiff was found guilty of solicitation to commit the murder of a federal judge and obstruction of justice. *Hale*, 710 F.3d at 712. His followers also have been convicted

of violent acts, including the solicitation to murder of the foreperson of the jury in Plaintiff's criminal case. *United States v. White*, 610 F.3d 956 (7th Cir. 2010); *see also United States v. White*, 698 F.3d 1005 (7th Cir. 2012), *cert. denied*, 133 S. Ct. 1740 (2013) (reversing judgment of acquittal entered by the district court and reinstating White's conviction). White posted on his website that "everyone associated with the Matt Hale trial has deserved assassination for a long time," identified the juror by name and posted a color photograph of the juror. *Id.* at 962 (emphasis added). Another follower went on a shooting rampage that targeted black, Asian and Jewish victims. That follower killed two people and wounded nine others before killing himself. *See United States v. Hale*, 448 F.3d 971, 975 (7th Cir. 2006) (observing that, in his eulogy to Smith, "Hale told his followers that 'brother Ben Smith was a very good man' and praised Smith's willingness to 'take action for his people, not to sit in the easy chair and allow life to go by but to go out into the world and spread our sacred message'").

Plaintiff has an exalted status among the followers of Creativity. He held the position of "Pontifex Maximus" ("highest priest") from 1996 to 2006, even though he has been in prison since January 2003. Amended Complaint, Doc. 10 at ¶¶ 20, 21. Plaintiff continues to communicate from prison with his followers, both by written correspondence and by means of a website called "Free Matt Hale." *See* <http://freematthale.net/>. Documents related to this litigation are published on this website. *See id.* The website also publishes "Press Releases" that convey Plaintiff's communications to his followers. *See* August 13, 2014, News Release, "Hale Addresses His Supporters Around The World!", available at http://freematthale.net/wp-content/uploads/2015/01/Press-Release_08_13_2014.pdf.

Given this context, which includes a record of dangerous conduct by Plaintiff and his followers, there is good cause for the Court to enter the attached proposed Protective Order. *See* Fed. R. Civ. P. 26(c) ("The court may, for good cause, issue an order to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more

of the following: ... specifying terms, including time and place or the allocation of expenses for the disclosure or discovery[.]”). The discovery to be produced in this case may include information that may implicate prison security and safety, the safety of persons both within and outside the prison, law enforcement techniques or investigations, and other sensitive personal information. Defendant has an interest in insuring that this information is not subject to widespread dissemination, nor is widespread dissemination necessary for Plaintiff to effectively pursue his claims in this case.

The Protective Order details the limits on the use of such information, both during the case and after its termination. Moreover, the Protective Order provides a mechanism for the parties to object to the designation of confidential information, which includes a mandatory conferral process before the issue is raised with the Court. *See* proposed Protective Order at ¶ 8. These provisions will minimize the necessity for judicial intervention in dealing with discovery materials. *See Gillard v. Boulder Valley School Dist.*, 196 F.R.D. 382, 386 (D. Colo. 2000).

WHEREFORE, Defendant respectfully requests that this Court enter a Protective Order in the form attached to this motion.

Respectfully submitted November 23, 2015.

JOHN F. WALSH
United States Attorney

s/ Susan Prose
Susan Prose
Assistant United States Attorney
1225 Seventeenth Street, Suite 700
Denver, Colorado 80202
Telephone: (303) 454-0100
Fax: (303) 454-0407
E-mail: susan.prose@usdoj.gov

Counsel for the Federal Bureau of Prisons

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
CERTIFICATE OF SERVICE (CM/ECF)**

I hereby certify that on November 23, 2015, I served the foregoing document¹ to the following non-CM/ECF participant in the manner indicated by the non-participant's name:

Matthew Hale (U.S. Mail)
Reg. No. 15177-424
ADX – Florence
P.O. Box 8500
Florence, CO 81226

s/ Susan Prose
Susan Prose
United States Attorney's Office

¹ The unpublished judicial decisions referenced in this motion were previously provided to Plaintiff.