

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

MICHAEL AMOS, et al.

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:20-CV-07-DMB-JMV

TOMMY TAYLOR, et al.

DEFENDANTS

JOINT MOTION FOR ENTRY OF AGREED PROTECTIVE ORDER

Plaintiffs and Defendants, by and through their respective undersigned counsel, submit this Joint Motion for Entry of Agreed Protective Order pursuant to this Court’s previous Orders. In support, the parties state the following:

1. This Court ordered expedited discovery for the purposes of Plaintiffs’ Emergency Motion for Temporary Restraining Order and Preliminary Injunction (“Emergency Motion”). Doc. 13, 42, 48, & 49. When the parties could not agree to the scope of expedited discovery, Plaintiffs filed a Motion to Compel, the Defendants filed a Response, and Plaintiffs filed a Reply. Doc. 33, 35, & 39. Defendants filed their own Motion to Compel. Doc. 37.
2. In their response to Plaintiffs’ Motion to Compel, Defendants requested that, for security purposes, “the Court first enter a protective order,” before Plaintiffs’ inspection of Parchman. Doc. 36 at 11. In their reply, Plaintiffs stated that they “have no objection to this additional request [for a protective order], provided such an Order affords adequate procedures for Lead Plaintiffs to seek the Court’s review of any and all photographs that Defendants refuse to ‘approve . . . for security issues’” Doc. 39 at 3.
3. On February 3, 2020, the Court held a hearing on the Motion to Compel Expedited Discovery. At the hearing, the Court made it clear that a separate motion would be

required for entry of a protective order. The Court stated that “ultimately, what [it] would like to do is to get a protective order that covers everybody’s situation.” Hearing Transcript at 25. The Court directed the parties to “work on a protective order, file a joint motion, and submit a proposed agreed protective order.” Hearing Transcript at 116.

4. On February 10, 2020, the Court issued an Order that “memorializes and clarifies rulings” made during the February 3, 2020, hearing. Doc. 48. In its Order, the Court stated:

The parties have not yet filed the joint motion for a protective order. In the meanwhile, should disclosure of discovery precede the entry of the contemplated protective order, the parties are directed to act in good faith to avoid misuse of the discovery. Given this directive and the expedited nature of these proceedings, the absence of a protective order does not excuse the parties from completing expedited discovery relative to the Injunction Motion.

Id. at 13.

5. The parties thereafter conferred in good faith and have agreed to a mutually acceptable Agreed Protective Order. A true and correct copy of the Agreed Protective Order is attached as Exhibit A and incorporated by reference.

ACCORDINGLY, the parties respectfully request that this Court enter the Agreed Protective Order attached as Exhibit A to this Motion. The parties request such other and further relief as the Court deems just and appropriate under the circumstances.

Respectfully submitted, this the 24th day of March, 2020.

/s/ Marcy B. Croft

Marcy B. Croft (MSB #10864)
MARON MARVEL BRADLEY
ANDERSON
& TARDY LLC
200 South Lamar Street
Jackson, MS 39201

/s/ Carson H. Thurman

Carson Thurman (MSB #104871)
CARROLL BUFKIN, PLLC
1076 Highland Colony Pkwy
600 Concourse, Suite 125

/s/ Trey Jones

R. David Kaufman (MSB #3526)
William Trey Jones, III (MSB #99185)
Karen E. Howell (MSB #102243)
Cody C. Bailey (MSB #103718)
Jacob A. Bradley (MSB #105541)
BRUNINI, GRANTHAM, GROWER & HEWES,
PLLC
The Pinnacle Building, Suite 100
190 East Capitol Street (39201)
Post Office Drawer 119
Jackson, Mississippi 39205
Counsel for Defendants

Ridgeland, MS 39157
Counsel for Plaintiffs

/s/ Thomas G. Bufkin
Thomas G. Bufkin (MSB #10810)
CARROLL BUFKIN, PLLC
1076 Highland Colony Pkwy
600 Concourse, Suite 125
Ridgeland, MS 39157
Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I, Trey Jones, hereby certify that on March 24, 2020, I caused the foregoing pleading to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record and registered participants.

/s/ Trey Jones
William Trey Jones, III
One of the Attorneys for the Defendants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

MICHAEL AMOS, et al., on behalf of themselves
and all others simmilarly situated

Plaintiffs,

Case No. 4:20-CV-007-DMB-JMV

v.

TOMMY TAYLOR, in his official capacity as the
Interim Commissioner of the Mississippi
Department of Corrections, and MARSHAL
TURNER, in his official capacity as the
Superintendent of the Mississippi State
Penitentiary,

Defendants.

AGREED PROTECTIVE ORDER

HAVING COME before the Court, the Parties, who, after receiving the Court's instructions, request by stipulation that the Court enter its order pertaining to various matters relevant to these proceedings.

IT IS THEREFORE ORDERED AND ADJUDGED that:

1. Inmate affirmations used as exhibits and/or provided to the Court in support of Plaintiffs' Emergency Motion for Temporary Restraining Order and Preliminary Injunction [Dkt. #13] and briefing related thereto will be produced to Defense Counsel of record only, until further order of the Court. Said information shall be held by Defense Counsel in the strictest confidence, and shall not be divulged by same, either verbally or in writing, to any person or entity other than the Court and designated experts retained by Defense Counsel to the extent those experts are not MDOC employees or otherwise affiliated with MDOC in anyway. Said experts will hold the information in the strictest confidence, and shall not divulge the contents of

same, either verbally or in writing, to any person or entity other than the Court and counsel of record in this matter.

2. Plaintiffs shall redact inmate affirmations before producing them to Defense Counsel as follows: (a) inmate affirmations by the thirty-three (33) named Plaintiffs in the First Amended Class Action Complaint will be produced unredacted except that names and other identifying information of other inmates and families contained in the affirmation shall be redacted; and (b) affirmations by inmates who are not one of the thirty-three (33) named Plaintiffs will be redacted to remove all identifying information of the affirming inmate and all other inmates and families referenced therein until further agreement of the parties or order of the Court. Each affirmation by an inmate who is not one of the thirty-three (33) named Plaintiffs will be uniquely numbered prior to production to Defense Counsel, so that each redacted affirmation will be identifiable in further proceedings.

3. The Court contemplates that the Parties' experts will be afforded certain access to the Mississippi State Penitentiary ("MSP") to conduct expert inspections. As part of these inspections, it is contemplated that these experts will have photographs taken, but not video. Any photographs taken as part of the expert inspections shall be for attorneys' and experts' eyes only until the parties agree otherwise or further order of the Court. Nothing in this order, however, shall be construed to prevent the parties from complying with requests from federal law enforcement or federal investigative agencies.

4. Defendants, the MSP, and/or their designee/s including, without limitation, Centurion of Mississippi, LLC ("Centurion"), are authorized to provide to Plaintiffs' Counsel copies of each of the thirty-three (33) named Plaintiff's medical records, including, without limitation, all protected health information ("PHI") and individually identifying health

information (“IIHI”). Persons other than Plaintiffs or their counsel obtaining access to unredacted documents containing PHI or IIHI under this Order shall use the information only for purposes of the instant litigation specified by the style above (including appeals and retrials), and shall not use such information for any other purpose. This Order constitutes a “qualified protective order” pursuant to the Privacy Rule, 45 C.F.R. § 164.512(e)(v), promulgated under the Health Insurance Portability and Accountability Act (“HIPAA”). Nothing in this order, however, prevents the thirty-three (33) named Plaintiffs from utilizing their own medical records for their own benefit, including without limitation, their own health.

5. On February 3, 2020, during a hearing on this matter, the Court requested a digital, aerial map reflecting the premises and units of MSP and a copy of plans showing the layout of units at MSP. Defendants have provided the aerial map to the Court and Plaintiffs’ Counsel for confidential review. Defense Counsel will provide the plans to the Court and Plaintiffs’ counsel for confidential review. The map and plans are for Defendants, Defense Counsel, Plaintiffs’ Counsel, the parties’ experts, and the Court to review, and they shall not be disclosed to any other person or entity without further court order.

6. On February 3, 2020, during a hearing on this matter, the Court requested documentation of all remedial measures taken by Defendants since the filing of this lawsuit. This documentation shall be provided to the Court for *in camera* inspection. The Court will release this documentation, in whole or in part, to Plaintiffs to the extent the Court deems said release appropriate.

7. Finally, the Court ordered Defendants to make available to Plaintiffs at MSP and during Plaintiffs’ experts’ inspection certain documents. *See* Rec. Doc. 48, 49. By agreement of the parties, copies of documents made available during the inspection have been, or will be,

provided to Plaintiffs. Those documents are subject to this Protective Order and, other than those documents which are publically available,¹ shall not be provided or shown to anyone other than Plaintiffs' Counsel, Defendants' Counsel, the parties' experts, and the Court until further agreement of the parties or order of the court. Additionally, to the extent they are not already covered herein, any other documents that: (1) are not publically available; (2) are designated as confidential; and, (3) have been produced or will be produced to Plaintiffs as part of this preliminary discovery process are subject to this Protective Order and shall not be provided or shown to anyone other than Plaintiffs' Counsel, Defendants' Counsel, the parties' experts, and the Court until further agreement of the parties or order of the court. Nothing in this order, however, shall be construed to prevent the parties from complying with requests from federal law enforcement or federal investigative agencies.

8. Attached to this Protective Order as Exhibit A is a Non-Disclosure Agreement that must be executed by any expert for Plaintiffs or Defendants who is in receipt of any of the above discussed documents, photographs, or information that is subject to this Protective Order.

SO ORDERED.

THIS the ____ day of March, 2020.

UNITED STATES DISTRICT JUDGE

¹ For example, in accordance with Miss. Code. Ann. §25-61-1, et seq. and MDOC Policy 05-05, et seq. (effective April 1, 2007), the Mississippi Department of Corrections' policies, standard operating procedures, and forms are, and remain, a matter of public record.

EXHIBIT A

NON-DISCLOSURE AGREEMENT

I, _____, hereby certify that I have been provided a copy of the Agreed Protective Order entered by the United States District Court for the Northern District of Mississippi in the case styled *Michael Amos, et al. v. Tommy Taylor, et al.*, Case No. 4:20-CV-007-DMB-JMV, and agree to comply with, and be bound by, its terms and conditions. I understand that a violation of the Agreed Protective Order is punishable by contempt of Court.

Date: _____

Signature: _____

Printed Name: _____