

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JEFFREY H. RANDLEMAN, )  
)  
Plaintiff, )  
)  
v. ) 1:15CV159  
)  
ALAMANCE COUNTY SHERIFF TERRY )  
S. JOHNSON, in his individual )  
and official capacities, and )  
JOHN DOE CORPORATION, in its )  
capacity as Surety on the )  
Official Bond of the Sheriff )  
of Alamance County, )  
)  
Defendants. )

**ORDER**

This case came on for hearing this date on Defendant Terry S. Johnson's motion for summary judgment (Doc. 34), the parties' motions to seal (Doc. 42, 47), and the parties' joint motion to reset a trial date (Doc. 52). This order memorializes the court's rulings following the hearing.

For the reasons fully set forth at the hearing:

Johnson's motion for summary judgment (Doc. 34) is DENIED.

Johnson's and Randleman's motions to seal (Docs. 42 and 47) are GRANTED IN PART and DENIED IN PART as follows:

When a party makes a request to seal judicial records, a district court "must comply with certain substantive and procedural requirements." Va. Dep't of State Police v. Wash. Post, 386 F.3d 567, 576 (4th Cir. 2004). Procedurally, the court must

(1) give the public notice and a reasonable opportunity to challenge the request to seal; (2) "consider less drastic alternatives to sealing"; and (3) if it decides to seal, make specific findings and state the reasons for its decision to seal over the alternatives. Id. "As to the substance, the district court first must determine the source of the right of access with respect to each document, because only then can it accurately weigh the competing interests at stake." Id. (internal quotation marks and alteration omitted). "While the common law presumption in favor of access attaches to all 'judicial records and documents,' the First Amendment guarantee of access has been extended only to particular judicial records and documents." Stone v. Univ. of Md. Med. Sys. Corp., 855 F.2d 178, 180 (4th Cir. 1988) (internal citation omitted). The Fourth Circuit has long held that the public has a First Amendment right of access to materials submitted in connection with dispositive motions, such as summary judgment motions. Wash. Post, 386 F.3d at 578-79.

The public's right of access "may be abrogated only in unusual circumstances." Stone, 855 F.2d at 182. Evaluating whether these "unusual circumstances" exist in a particular case is a fact-based inquiry conducted in light of the "specific facts and circumstances" of the case at issue. See Wash. Post, 386 F.3d at 579. In a criminal case involving motions and hearings to which the public had a First Amendment right of access, the Fourth

Circuit held that the following factors were relevant when balancing the government's interest in secrecy and the public's right to access: "whether the records are sought for improper purposes, such as promoting public scandals or unfairly gaining a business advantage; whether release would enhance the public's understanding of an important historical event; and whether the public has already had access to the information contained in the records." In re Knight Publ'g Co., 743 F.2d 231, 235 (4th Cir. 1984) (citing Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597-608 (1978)); see also Nixon, 435 U.S. at 598 (noting that public access may be inappropriate for "business information that might harm a litigant's competitive standing"). Numerous district courts in this circuit have applied these factors in civil cases. See, e.g., Adler v. CFA Inst., No. 1:11-CV-1167, 2012 WL 3257822, at \*1 (E.D. Va. Aug. 7, 2012); Mitchell v. Smithfield Packing Co., No. 4:08-CV-182-H, 2010 WL 4877054, at \*1 (E.D.N.C. Nov. 24, 2010); Tustin v. Motorists Mut. Ins. Co., 668 F. Supp. 2d 755, 759 (N.D.W. Va. 2009); Silicon Knights, Inc. v. Epic Games, Inc., No. 5:07-CV-275-D, 2008 WL 3914463, at \*3 (E.D.N.C. Aug. 22, 2008).

The two motions to seal have been pending for 101 and 67 days, respectively, and no one has objected to the sealing of any document.

By agreement of the parties as expressed at the hearing, Documents 40, 48-1, 48-9, 48-10, and 48-11 are hereby UNSEALED,

and the Clerk of Court is hereby directed to UNSEAL them. Documents 40 and 48-1 contain excerpts from a public trial transcript. Documents 48-10 and 48-11 are excerpts from Plaintiff Jeffrey Randleman's Alamance County Sheriff's Office ("ACSO") personnel file, and he has brought those documents into the public sphere by bringing this lawsuit.

Documents 48-14 and 48-15 shall remain SEALED. These documents are excerpts from the personnel files of non-party ACSO employees and are not necessary to the court's disposition of the motion for summary judgment.

Documents 48-2, 48-3, 48-4, 48-5, 48-6, 48-7, 48-8, and 48-16 are presently SEALED in their unredacted form. These documents contain the names and personal information of non-party individuals. However, a copy of these documents has been filed in a redacted form (Doc. 46) for the public's use. Therefore, no further filing need be made as to these.

Documents 48-12 and 48-13 are presently SEALED in their unredacted forms. These documents are from Randleman's ACSO personnel file and are thus matters of public concern that relate to his present claim. They should be UNSEALED except for Randleman's social security number. The parties are therefore directed to refile as UNSEALED versions of each document that redact his Social Security Number.

The parties have asked the court to seal all of Document 38, which contains ACSO Chief Deputy Timothy Britt's declaration and several exhibits thereto. The following portions of the document contain matters of public concern and are therefore UNSEALED: pages 2-3 (Chief Deputy Britt's Declaration); 4 (findings of an internal investigation into Randleman's conduct while employed by the ACSO); 13-14 (letters from Dr. Gary L. Kling regarding Randleman's counseling with the Alamance Regional Medical Center); 43 (Richard Longamore's file memorandum regarding Randleman's counseling); 51-61 (records from Randleman's Automatic Vehicle Locator system); and 100-01, 107-12 (various portions of Randleman's ACSO personnel file). The remainder of Document 38 shall remain SEALED in its unredacted form because these portions contain the names and personal information of non-party individuals. The parties are directed to refile versions of these documents consistent with this ruling.

Finally, by agreement of the parties as expressed at the hearing, trial is set for September 11, 2017, at 9:30 am, in Winston-Salem, Courtroom Number 2. A pretrial hearing will take place on September 6, 2017, at 9:30 am, in Winston-Salem, Courtroom Number 2.

IT IS SO ORDERED.

/s/ Thomas D. Schroeder  
United States District Judge

July 14, 2017