

**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.

**FEDERAL BUREAU OF PRISONS' MOTION FOR ORDER
TO RESTRICT ACCESS TO DOCKET ENTRY 234**

The Federal Bureau of Prisons (“BOP”) respectfully requests that the Court retain a Level 1 restriction on access to the unredacted version of a declaration submitted by Amy Kelley, a Lieutenant detailed to the Special Investigative Services (“SIS”) Department at the Federal Correctional Complex in Florence, Colorado. Doc. 234. Lieutenant Kelley’s declaration was also publicly filed, with minimal redactions, on June 4, 2018. *See* Doc. 233-1. Because Mr. Hale is an inmate in federal custody who is representing himself, the BOP did not consult with him before filing this motion. *See* D.C.COLO.LCivR 7.1(b)(1).

There is good cause for the Court to retain a Level 1 restriction on the unredacted version of Lieutenant Kelley’s declaration. The minimal information redacted from the publicly filed version of the declaration consists of specific quotes from recent writings by Mr. Hale. The redactions covered extremely inflammatory statements by Mr. Hale denigrating non-white

persons and adherents of Christianity. Based on their knowledge of Mr. Hale's influence outside the prison, SIS personnel who monitor Mr. Hale's communications have great concern that these statements could be read by Mr. Hale's followers as advocating or encouraging criminal actions. Kelley Decl. (redacted version), Doc. 233-1 ¶¶ 9-11 & n.2. For that reason, the document from which this material was taken was rejected when Mr. Hale tried to send it out of the ADX. *Id.* ¶ 11.

To guard against any unnecessary risks to the safety and security of innocent persons, the BOP now requests that the unredacted version of Lieutenant Kelley's declaration continue to be subject to a Level 1 restriction on access. In accordance with the requirements of D.C.COLO.LCivR 7.2(c), the BOP states:

- (1) The BOP seeks a restriction on access to docket entry 234. *See* Local Rule 7.2(c)(1) ("identify the document or the proceeding for which restriction is sought");
- (2) The BOP's interest in protecting innocent persons from any violence that Mr. Hale's words might incite outweighs the presumption of public access. *See* Local Rule 7.2(c)(2) ("address the interest to be protected and why such interest outweighs the presumption of public access").
- (3) In the correctional judgment of BOP investigative personnel, there is a risk that Mr. Hale's words could incite violence among his followers. Persons of certain racial and religious groups could be particular targets. In addition, the BOP will be injured if information that was not allowed to leave the prison for security reasons is allowed to enter the public domain simply because the BOP needed to reference that information to respond to a motion filed by Mr. Hale. If the information is not restricted, Mr. Hale will have effectively

circumvented BOP mail-monitoring procedures. *See* Local Rule 7.2(c)(3) (“identify a clearly defined and serious injury that would result if access is not restricted”);

(4) The BOP does not seek total exclusion, but has presented Lieutenant Kelley’s declaration to the public in minimally redacted form, *see* Doc. 233-1, thereby maximizing public access to the information in a manner that is consistent with important security interests. *See* Local Rule 7.2(c)(4) (“explain why no alternative to restriction is practicable or why only restriction will adequately protect the interest in question (e.g., redaction, summarization, restricted access to exhibits or portions of exhibits”)); and

(5) The BOP seeks a Level 1 restriction on access. *See* Local Rule 7.2(c)(5) (“identify the level of restriction sought”).

The BOP’s request for a restriction on access satisfies the requirements set forth in Local Rule 7.2. The BOP respectfully requests that the Court retain the Level 1 restriction on docket entry 234.

Respectfully submitted on June 13, 2018.

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

I hereby certify that on June 13, 2018, I directed personnel in the U.S. Attorney's Office to serve the foregoing document on the following non-CM/ECF participant by U.S. mail:

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