

**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’ REPLY IN SUPPORT OF MOTION FOR ORDER
TO RESTRICT ACCESS (DOC. 236)**

Mr. Hale points to no reason for the Court to deny the BOP’s motion to restrict access, which seeks only minimal redactions in one docket entry. *See* Doc. 236 (motion to restrict); *see also* Doc. 238 at 3-8 (excerpt from Hale’s filing entitled “Plaintiff’s Notice of Non-Service of Docket Entries 233-235, Motion to Strike and (Initial) Response to Defendant’s Motion for Order to Restrict Access” (Doc. 236)). At bottom, Mr. Hale simply disagrees with the BOP’s correctional judgment that a very small portion of his plainly inflammatory writings—which the BOP was obliged to briefly describe in responding to his motion for relief from judgment (Doc. 229)—should be redacted from the public record to attempt to prevent violence against certain racial and religious groups. *See* Doc. 236 at 2. As the Special Investigative Services Lieutenant at the ADX explained, these statements gave ADX investigators “great concern that Creativity

followers could infer that Hale was, once again, tacitly sanctioning criminal actions against non-whites.” Doc. 233 at 2; *see also* Kelley Decl., Doc. 233-1 ¶ 11.

Mr. Hale construes the situation differently and objects to the redactions, *see* Doc. 238 at 3-8, but as an inmate, there are limitations on his First Amendment rights. As the Supreme Court has emphasized, “[a]n inmate does not retain rights inconsistent with proper incarceration[,]” and “freedom of association is among the rights least compatible with incarceration.” *Overton v. Bazzetta*, 539 U.S. 126, 131 (2003). Moreover, when it comes to protecting institutional security and public safety, the Supreme Court has long held that deference is due to the correctional judgment of BOP officials. In this sensitive security context, the Supreme Court has emphasized “a policy of judicial restraint” in which the professional judgment of prison officials receives “substantial deference.” *Turner v. Safley*, 482 U.S. 78, 85-86, 89 (1987); *Thornburgh v. Abbott*, 490 U.S. 401, 407-08 (1989) (observing that the Supreme Court “has afforded considerable deference to the determinations of prison administrators who, in the interest of security, regulate the relations between prisoners and the outside world”). Here, the BOP has requested minimal redactions based on an informed analysis of the situation by responsible prison officials, who have exercised their predictive judgment—based on their experience as correctional professionals and their knowledge of Mr. Hale and his communications—to attempt to forestall a threat.

There is good cause for the Court to grant the BOP’s motion to restrict. Finally, as Mr. Hale has acknowledged, he received docket entries 233 and 234 and has filed a reply in support of his motion for relief from judgment. *See* Doc. 238 at 1. There is no basis for the Court to strike docket entries 233 and 234 from the record.

Respectfully submitted on July 6, 2018.

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s/ Susan Prose

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

I hereby certify that on July 6, 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:

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s/ Susan Prose
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