

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Dunsmore v. San Diego County Sheriff's Department, et al.

Dunsmore · No. 20-cv-406-AJB-DDL · Decided December 31, 2025

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 SOUTHERN DISTRICT OF
CALIFORNIA 10 11 DARRYL DUNSMORE, et al., Case No.: 20-cv-406-AJB-DDL 12
Plaintiffs, ORDER DENYING WITHOUT 13 v. PREJUDICE PLAINTIFFS' MOTION TO RE-
OPEN 14 SAN DIEGO COUNTY SHERIFF'S DISCOVERY AND GRANTING
DEPARTMENT, et al., 15 PLAINTIFFS' MOTION TO SEAL Defendants. 16 [Dkt. Nos. 963,
964] 17 18 On May 20, 2025, the Court granted in part Plaintiffs' motion to set a fact 19 cutoff
date for the liability phase of this case and set a fact cutoff date of February 20 3, 2025.

Dkt. No. 918. Pursuant to that order, the parties will not "rely upon and/or 21 introduce evidence
as part of the liability phase of trial regarding events after 22 February 3, 2025." Id. However,
"both parties may submit evidence regardless of 23 date of event/creation for the remedy phase of
the trial." Id. 24 Plaintiffs move to re-open fact discovery to allow them to obtain discovery 25
pertaining to the deaths of two incarcerated persons in San Diego County jails in 26 July 2025.

Specifically, Plaintiffs seek video footage from body worn and 27 stationary cameras, written
reports about the decedents, the decedents' medical 28 1 and custody records, "all logs and/or
audits regarding safety checks and/or 2 wellness rounds" performed in the units where the
decedents were housed and 3 depositions of "all custody and mental health staff" who interacted
with each 4 decedent in the days preceding their death.

Dkt. No. 963-1 at 9. 5 Plaintiffs acknowledge the February 3, 2025 fact cutoff date but "seek the 6
requested discovery specifically for developing a remedy related to their mental 7 health claim
regarding Defendants' placement of people with mental health needs 8 in punitive AdSep units."
Id. at 12-13. Defendants oppose the motion, arguing 9 that the requested discovery will interfere
with an ongoing homicide investigation 10 and that Plaintiffs have not shown how placement in
AdSep caused either death.

11 Dkt. No. 968. 12 In determining whether to modify a scheduling order under Fed. R. Civ. P. 13
16(b)(4) to reopen discovery, a court must consider the following factors: 14 1) whether trial is
imminent, 2) whether the request is opposed, 3) 15 whether the non-moving party would be
prejudiced, 4) whether the 16 moving party was diligent in obtaining discovery within the
guidelines 17 established by the court, 5) the foreseeability of the need for additional 18 discovery

in light of the time allowed for discovery by the district court, 19 and 6) the likelihood that the discovery will lead to relevant evidence.

20 *City of Pomona v. SQM N. Am. Corp.*, 866 F.3d 1060, 1066 (9th Cir. 2017). 21 Here, no trial date has been set, Plaintiffs acted diligently in seeking the 22 additional discovery promptly following the deaths at issue, and the need for this 23 discovery was not foreseeable to Plaintiffs. These factors all weigh in favor of 24 reopening discovery. 25 On the other hand, the discovery Plaintiffs seek regarding the two decedents 26 is broad, including video footage, written reports, medical and custody records, all 27 logs/audits for safety checks and wellness rounds in their respective units, and 28 depositions of “all custody and mental health staff” who interacted with each 1 decedent over a three-day period.

Defendants point out that the parties have 2 engaged in extensive fact discovery and that authorizing the additional discovery 3 Plaintiffs seek will require Defendants to depose the six incarcerated persons who 4 submitted declarations regarding the deaths.

Moreover, because this additional 5 evidence post-dates the February 3, 2025 fact cut-off, it will become relevant, if at 6 all, in determining an appropriate remedy if Plaintiffs were to prevail on the issue 7 of liability. 8 Considering all the relevant factors, the Court finds Plaintiffs have not 9 established good cause to obtain the broad discovery they seek and denies the 10 motion without prejudice.

Should Plaintiffs wish to seek a more narrowly tailored 11 set of records pertaining to the decedents, they shall meet and confer with 12 Defendants and may seek a discovery conference with the Court thereafter. 13 Plaintiffs’ motion includes a declaration from Plaintiffs’ counsel describing 14 information about the decedents taken from “ADA Rosters” of incarcerated 15 persons provided by Defendants to Plaintiffs pursuant to the parties’ prior 16 settlement of Plaintiffs’ ADA cause of action.

In June 2023, as part of that 17 settlement, the Court ordered Defendants to provide monthly housing rosters 18 “marked as Attorney’s Eyes Only, reflecting the disability needs of every person 19 incarcerated at Central Jail who have been identified as having a mobility or 20 hearing disability...” Dkt. No. 792. 21 “Generally, the Court applies a good cause standard to motions to seal 22 documents related to a discovery motion.” *Dunsmore v. San Diego Cnty.*

Sheriff’s 23 Dep’t, No. 20-CV-406-AJB-DDL, 2024 WL 628021, at *9 (S.D. Cal. Feb. 14, 2024). 24 Here, the information at issue in counsel’s declaration was taken from ADA 25 Rosters ordered to be produced as “Attorney’s Eyes Only” as part of the ADA 26 settlement.

As such, the Court finds good causes supports the filing of this 27 information under seal. 28 / / / 1 Finally, the Court denies without prejudice Defendants’ request for sanctions. 2 ||Any request for sanctions must be raised through a properly noticed motion to 3 which the opposing party will

have an opportunity to respond. 4 IV. 5 CONCLUSION 6 For the foregoing reasons, the Court DENIES WITHOUT PREJUDICE 7 Plaintiffs’ motion to reopen discovery (Dkt.

No. 963) and GRANTS □□□□□□□□□□ 8 ||motion to seal (Dkt. No. 964). By not later than January 14, 2026, Plaintiffs must 9 || file a redacted version of counsel's declaration. 10 11 || IT IS SO ORDERED. 12 || Dated: December 31, 2025 ait 13 Tb Lhe 14 “Hon. DavidD.LeshnerS[™]S^{~™}S 15 United States Magistrate Judge 16 17 18 19 20 21 22 23 24 25 26 27 28