

United States Court of Federal Claims

No. 11-330 C
September 2, 2011
UNPUBLISHED

BENJAMIN CUNNINGHAM,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

ORDER ON PLAINTIFF'S MOTION FOR RECONSIDERATION

On June 6, 2011, defendant filed an emergency motion to seal the complaint in this case. *See* Def.'s Emergency Mot. to Seal at 1 (June 6, 2011). After reviewing the contents of the complaint, the court sealed the complaint because it contains personal information required to be redacted by Rule of the United States Court of Federal Claims ("RCFC") 5.2. Order on Mot. to Seal (June 9, 2011). RCFC 5.2 requires filings with this court that contain a social security number or birth date to be redacted to include only the last four digits of the social security number and only the year of the individual's birth. RCFC 5.2(a).¹ This Rule allows the court to "order that a filing be made under seal without redaction" and "later unseal the filing or order the person who made the filing to file a redacted version for the public record." RCFC 5.2(d).

In sealing the complaint, the court ordered the parties to discuss which specific portions of the complaint should be redacted and thereafter to file a status report by June 24, 2011. Order on Mot. to Seal. After the court had sealed the complaint, plaintiff filed an opposition to defendant's motion to seal. *See* Affirmation in Opp'n against Def.'s Emergency Mot. to Seal (July 17, 2011) ("Pl.'s Opp'n"). However, because the motion to seal has already been granted and the complaint sealed, the court deems plaintiff's opposition to be a motion for reconsideration of the decision to seal the complaint. *See* RCFC 54(b) (allowing "any order" to be "revised at any time before the entry of a judgment adjudicating all the claims and all the parties' rights and liabilities"). Subsequently, on June 24, 2011, defendant filed a status report informing the court that plaintiff refuses to discuss any redaction of the complaint until this court rules on his motion for reconsideration. *See* Def.'s Status Report at 1 (June 24, 2011).

¹ Of course, the requirements of RCFC 5.2(a) establish only the minimum level of protection for personal information. A court may order that other information be redacted. *See* RCFC 5.2(e) (allowing a court to require redaction of additional information); *Clearmeadow Invs., LLC v. United States*, 86 Fed. Cl. 30, 32 (2009) (quoting the advisory committee's note to Federal Rule of Civil Procedure 5.2, which is the basis for RCFC 5.2).

In his motion for reconsideration, plaintiff largely repeats the allegations found in his complaint. However, plaintiff does briefly address RCFC 5.2. *See* Pl.'s Opp'n at 6–7. According to plaintiff, “RCFC Section 5.2 has no . . . legal connection with [plaintiff’s] legal facts.” *Id.* at 7. Plaintiff states that these “legal facts” concern defendant’s willful public disclosure of the personal information contained in his complaint. *Id.*

In ruling on this motion for reconsideration, the court need not determine whether, as plaintiff alleges, defendant “willfully provided” the relevant personal information “for public display.” *Id.* These alleged actions by defendant are entirely irrelevant to the court’s decision to seal the complaint. The decision to seal the complaint was based on RCFC 5.2, which requires the filing party to redact certain personal information from court filings without regard to how the filing party acquired the information or whether the information has been otherwise released to the public. *See* RCFC 5.2(a).

Accordingly, the court DEEMS plaintiff’s OPPOSITION TO BE a MOTION FOR RECONSIDERATION of the decision to seal the complaint, and the Clerk is directed to docket the motion as deemed. Additionally, plaintiff’s MOTION for reconsideration is DENIED. The COMPLAINT SHALL REMAIN SEALED. Plaintiff SHALL FILE a REDACTED COPY of the COMPLAINT that complies with RCFC 5.2 no later than Friday, September 30, 2011.

IT IS SO ORDERED.

Lawrence J. Block
Judge