

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF IDAHO

ADREE EDMO,)	Case No. 1:17-cv-151-BLW
)	
Plaintiff,)	
vs.)	PROTECTIVE ORDER
)	
IDAHO DEPARTMENT OF)	
CORRECTION; HENRY ATENCIO, in)	
his official capacity; JEFF ZMUDA, in)	
his official capacity; HOWARD KEITH)	
YORDY, in his official and individual)	
capacities; CORIZON, INC.; SCOTT)	
ELIASON; MURRAY YOUNG;)	
RICHARD CRAIG; RONA SIEGERT;)	
CATHERINE WHINNERY; AND)	
DOES 1-15;)	
)	
Defendants.)	
_____)	

IT IS HEREBY ORDERED that the Stipulated Motion for Entry of Protective Order Re: PSI Reports (Dkt. 87) is **GRANTED**.

PURSUANT to the *Stipulated Motion for Entry of Protective Order* submitted by the parties and for good cause showing, IT IS HEREBY ORDERED that:

1. This Protective Order shall govern the designation, disclosure, and use of confidential Presentence Investigation Reports and their attachments (PSI Reports) by the parties to this matter. Such PSI Reports were prepared in conjunction with the Plaintiff's two (2) prior criminal convictions in the District Court of the Sixth Judicial District for the State of Idaho.

2. The first PSI Report was prepared in Bannock County Criminal Case No. CR-2009-0008570-FE.

3. The second PSI Report was prepared in Bannock County Criminal Case No. CR-2011-0011293-FE.

4. The PSI Reports are in the custody of the Idaho Department of Corrections (IDOC) pursuant to the District Court's sentencing orders, Idaho Criminal Rule 32, Idaho Administrative Rule 32, and Idaho Code §§ 19-2519(b) and 20-237.

5. On July 11, 2018, the District Court entered an *Order* authorizing the disclosure of the PSI Reports for use in the instant case, pursuant to Idaho Criminal Rule 32(h)(3). The District Court's *Order* is attached hereto as **Exhibit 1**.

6. In this *Protective Order*, the term "Confidential PSI Documents" shall mean all pages from the PSI Reports that have been designated and stamped by IDOC as "CONFIDENTIAL – PSI." Such stamp will appear at the top of each page so designated.

7. Confidential PSI Documents designated as described in Paragraph 6 of this *Protective Order* shall be inspected and/or possessed only by persons authorized in accordance with Paragraph 9 of this *Protective Order*.

8. When Confidential PSI Documents are attached or marked as an exhibit at a deposition, any attorney of record authorized pursuant to Paragraph 9 herein shall notify all others present at the deposition. The court reporter shall then mark the exhibit to be used as "CONFIDENTIAL."

9. Confidential PSI Documents may be disclosed only to:

(a) Any party, employee of a party, and any attorney representing a party in this action, who has read this *Protective Order*, and agrees to be bound by it, and any other person assisting such an attorney, employed by the same law firm or organization as the attorney, who has read this *Protective Order*, agrees to be bound by it, and for whom access to

Confidential PSI Documents is necessary to perform a duty with respect to this action. The execution of the *Stipulated Motion for Entry of Protective Order* by any member of a law firm or organization shall constitute a representation that all persons in or employed by that firm shall observe this *Protective Order*.

(b) Any expert or consultant qualified to have access to Confidential PSI Documents as provided in Paragraph 10 of this Protective Order.

(c) Any personnel of the Court and court reporters retained to record and transcribe testimony in this action.

(d) Any employee of the party that produced the Confidential PSI Documents.

(e) Any person who authored or received the Confidential PSI Documents prior to its designation in this action as confidential PSI information.

(f) Personnel of photocopy firms and/or graphics firms who subscribe to and agree to be bound by the terms of this *Protective Order* and who have executed an acknowledgment form similar to **Appendix A** hereto. Only documents needed to be copied will be provided to said individuals.

10. Any party may designate experts or consultants, who are not regular employees of either party who may have access to Confidential PSI Documents. An expert or consultant shall qualify for access to such information as follows:

(a) The party seeking to disclose Confidential PSI Documents shall first have said expert or consultant complete and sign an acknowledgment form, shown as **Appendix A** to this *Protective Order*.

(b) When a corporation or other organization is engaged as an expert or consultant by a party or its counsel of record, said corporation or organization may become

qualified to review Confidential PSI Documents under this *Protective Order* only upon the qualification of each natural person within such organization or corporation who has access to Confidential PSI Documents.

11. Any party who intends to file all or any portion of the Confidential PSI Documents with the Court must do so under seal, pursuant to Rule 5.2 of the Federal Rules of Civil Procedure and District Local Rule Civ. 5.3.

12. Confidential PSI Documents shall be used solely in this proceeding, including on appeal, and shall not be used or disclosed at any other time or for any other purpose whatsoever.

13. It shall be the duty and responsibility of the counsel of record to ensure that the Confidential PSI Documents subject to counsel's control shall at all times be kept in a safe and secure fashion to ensure that such documents are not disclosed to or made accessible to persons other than those specifically authorized to review Confidential PSI Documents under this *Protective Order*. Counsel of record shall be directly responsible to the Court for fulfilling this responsibility.

14. The inadvertent or unintended disclosure of Confidential PSI Documents by a party, its representatives, experts, or consultants shall not be deemed a waiver in whole or in part of a subsequent claim of protection under this *Protective Order*. The identity of any minor victim shall remain redacted from the Confidential PSI Documents. Should the identity of any minor victim be inadvertently disclosed by a party or its representatives, experts, or consultants, the person who inadvertently disclosed the victim's identity shall notify the other parties to this matter immediately and take all measures necessary to correct the inadvertent disclosure, including redacting that identifying information from any documents, communication, discovery, pleadings, notes, or reports where such disclosure may have been made.

15. Within thirty (30) days after the termination of this action, the originals and all copies of Confidential PSI Documents shall be destroyed or returned to IDOC, or to its attorney, except that one copy of such documents may be retained in the files of each attorney. Any documents so retained shall be maintained pursuant to this *Protective Order*, and by retaining this information each attorney agrees to the continuing jurisdiction of this Court for purposes of enforcing this *Protective Order*.

16. Should any party, or person qualified to obtain Confidential PSI Documents hereunder, or their agents or representatives, receive any request for Confidential PSI Documents, whether through formal compulsory process or lawful authority of the Court or otherwise, prior to responding thereto, such person or counsel shall promptly serve written notice of receipt of same on counsel for all parties hereto in order to allow said party or parties to move an appropriate court or tribunal for a ruling respecting the necessity of compliance therewith. Absent a ruling from the appropriate court or tribunal on said motion, the person or party receiving the aforesaid request for information or compulsory process shall not produce in response thereto and shall thereafter do so only insofar as the court or tribunal may direct.

17. Upon final termination of this action, whether by settlement, dismissal, or other disposition, the provisions of this *Protective Order* shall continue to be binding upon all persons or entities who are subject to the terms hereof, and the Court shall retain jurisdiction for enforcement of this order.



DATED: August 6, 2018

A handwritten signature in black ink that reads "B. Lynn Winmill". The signature is written in a cursive style and is positioned above a horizontal line.

B. Lynn Winmill
Chief U.S. District Court Judge

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)	
Plaintiff,)	
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)	AND ASSENT
IDAHO DEPARTMENT OF)	
CORRECTION; HENRY ATENCIO, in)	
his official capacity; JEFF ZMUDA, in)	
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)	
Defendants.)	
_____)	

I, _____ [name of person signing pursuant to Paragraphs 9 and 10 of the *Protective Order* in this action], a(n) _____ [employee, graphics consultant, photocopier, expert, consultant] employed by _____ [name of employing party], acknowledge that I have read the *Protective Order* entered in this action and agree to be bound by its terms. I submit to the jurisdiction of this Court for purposes of enforcement of the *Protective Order*.

DATED this ____ day of _____, 2018.
