

**FILED**  
THIRD DISTRICT COURT  
SEP 13 2017  
WEST JORDAN DEPT.

**THIRD JUDICIAL DISTRICT COURT**  
SALT LAKE COUNTY, STATE OF UTAH  
WEST JORDAN DEPARTMENT

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| <p>EDGARDO MATA,</p> <p>Petitioner,</p> <p>vs.</p> <p>UTAH DEPARTMENT OF CORRECTIONS;<br/>and UTAH STATE RECORDS<br/>COMMITTEE,</p> <p>Respondents.</p> | <p><b>ORDER ON RESPONDENT'S MOTION<br/>FOR SUMMARY JUDGMENT</b></p> <p>Case No. 160903298</p> <p>Judge James D. Gardner</p> |
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THIS MATTER is before the Court on Respondent Utah Department of Corrections' (UDC) Motion for Summary Judgment (Motion). The parties briefed the issues and the Court heard argument on August 22, 2017, before taking the Motion under advisement. Having carefully reviewed the record and considered the arguments of counsel and Mr. Mata, the Court now issues the following Order.<sup>1</sup>

**BACKGROUND**

This action stems from a records request filed by Petitioner Edgardo Mata pursuant to the Government Records Access and Management Act (GRAMA), Utah Code Ann. § 63G-2-101 et seq. In the request, Mr. Mata sought from UDC a copy of his security threat group file (STG File). An STG File is a collection of records on an inmate who is a known or suspected gang member. It is meant to “(1) identify which inmates belong to [a gang], and (2) monitor that

<sup>1</sup> On July 13, 2017, Mr. Mata filed a Motion for Evidentiary Hearing. Because the Court grants UDC's Motion, the Court denies Mr. Mata's Motion for Evidentiary Hearing.

inmate's gang activity over the course of his incarceration in UDC facilities." (UDC's Statement of Fact #10, Motion at 3.) UDC denied Mr. Mata's records request and he appealed to the State Records Committee. In a Decision and Order issued in April 2016, the State Records Committee found that UDC properly classified Mr. Mata's STG File as "protected" and, therefore, denied his appeal. Mata timely filed the instant action, seeking judicial review of the State Records Committee's decision.<sup>2</sup> UDC now seeks summary judgment.<sup>3</sup>

### STANDARD

Summary judgment is appropriate where "the moving party shows that there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law." Utah R. Civ. P. 56(a). When considering a motion for summary judgment, the trial court should not weigh evidence and must construe all reasonable inferences in favor of the nonmoving party. *Pigs Gun Club, Inc. v. Sanpete County*, 2002 UT 17, 42 P.3d 379. When a defendant moves for summary judgment on an issue that the plaintiff will bear the burden of proof on at trial, the plaintiff cannot merely rest on allegations in his complaint to avoid summary judgment. *A Healthy Choice v. Brown*, 2013 UT App 264, ¶ 4 (per curiam). Instead,

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<sup>2</sup> On a petition for judicial review of a State Records Committee decision, the Court shall "(a) make its decision de novo, but, for a petition seeking judicial review of a records committee order, allow introduction of evidence presented to the records committee; (b) determine all questions of fact and law without a jury; and (c) decide the issue at the earliest practical opportunity." Utah Code Ann. § 63G-2-404(6).

<sup>3</sup> In his opposition, Mr. Mata raised various alleged constitutional violations. At oral argument, however, Mr. Mata conceded that the only issue before the Court is the narrow question of whether Mr. Mata should be provided his STG File under GRAMA and that any constitutional claims are being litigated in another forum.

the plaintiff must “set forth by affidavit or other evidence specific facts” showing there is a genuine issue for trial. *Evans v. Huber*, 2016 UT App 17, ¶ 12.

### DISCUSSION

Under GRAMA, a governmental entity has no obligation to disclose a record properly classified as protected. The various categories of protected records are enumerated in Utah Code Ann. § 63G-2-305. Three are at issue here. They are found in subsections (10), (11) and (13):

(10) records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:

(a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;

(b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;

(c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;

(d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source;

or

(e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts;

(11) records the disclosure of which would jeopardize the life or safety of an individual; [and]

...

(13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;

Utah Code Ann. § 63G-2-305(10), (11) and (13).

UDC classified Mr. Mata's STG File as protected under subsections (10), (11) and (13). Mr. Mata does not challenge the classification of his STG File as protected under any of the three subsections. Instead, Mr. Mata contends that his STG File should nevertheless be disclosed to him because "there is a public interest at stake." (Petitioner's Mem. in Opp'n to Mot. for Summ. J. at 11.)

A district court may order disclosure of protected records only if the applicable statutory standard is met. Which one of the several standards applies depends on which subsection the records are classified under. For example, records classified under subsection (11) have the most restrictive standard for disclosure. They may be disclosed "only if the person or party seeking disclosure of the record has established, by clear and convincing evidence, that the public interest favoring access is equal to or greater than the interest favoring restriction of access." Utah Code Ann. § 63G-2-406(2). For records classified under subsection (10), the standard is similar, but slightly less restrictive. Records classified under subsection (10) may be disclosed "only if the person or party seeking disclosure of the record has established, by a preponderance of the evidence, that the public interest favoring access is equal to or greater than the interest favoring restriction of access." Utah Code Ann. § 63G-2-406(1). Finally, records classified under subsection (13) have the least restrictive standard. Records classified under subsection (13) may

be disclosed “if the interest favoring access is greater than or equal to the interest favoring restriction of access.” Utah Code Ann. § 63G-2-404(7)(a).

Because Mr. Mata does not challenge the classification of his STG File under any of the subsections and because records classified under subsection (11) have the most restrictive standard for disclosure, the Court analyzes only the standard applicable to subsection (11) records.<sup>4</sup> That standard requires the Court to balance the public interest in disclosure against the interest favoring restriction of access. To be successful, Mr. Mata must prove by clear and convincing evidence that the interests are at least equal.<sup>5</sup>

“[B]alancing competing interests is a fact-intensive and ‘inherently discretionary task[.]’” *Schroeder v. Utah Attorney General’s Office*, 2015 UT 77, ¶ 17, 358 P.3d 1075. Moreover, “the balancing analysis under GRAMA must be tethered to the specific interests of the parties and the particularized application of the relevant public policies at issue.” *Id.* at ¶ 51. Stated differently, “GRAMA directs district courts to focus on *particularized* ‘interests and public policies pertinent to the classification and disclosure ... of information,’ not a general analysis of competing public policies.” *Id.* at ¶ 57 (emphasis and alteration in original) (internal citation omitted).

Here, UDC has presented un rebutted testimony that disclosure of Mr. Mata’s STG File would compromise the safety and security of the prison and, by extension, the guards and other

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<sup>4</sup> Whether Mr. Mata can satisfy the less restrictive standards for disclosure is immaterial if he is unable to satisfy the more restrictive standard. Conversely, if he is able to satisfy the more restrictive standard, then it necessarily follows that he would be able to satisfy any less restrictive standard. Either way, the Court need analyze only the standard applicable to subsection (11) records.

<sup>5</sup> To avoid summary judgment, of course, Mr. Mata need only demonstrate that there is a genuine dispute as to the balancing of interests.

inmates.<sup>6</sup> Specifically, Travis Knorr<sup>7</sup> testified that “information found in an inmate’s STG file can be readily used to frustrate UDC’s efforts to investigate and prevent gang violence in its facilities.” (Knorr Decl. at ¶ 10.) Mr. Knorr further testified that disclosing inmates’ STG files would “help inmates avoid detection as gang members by enabling them to obscure or conceal information they know the STG Intelligence Unit will be looking for.” (*Id.* at ¶ 11.) Mr. Knorr explained that a gang member who is given access to his STG file would have a duty to share it with other members of his gang, thereby assisting other gang members to avoid detection. A gang member who is undetected can extend the gang’s reach to target inmates who were not previously accessible to the gang. Perhaps most compelling, Mr. Knorr testified that STG files regularly contain the identities of government informants and that “[d]isclosing the identify of an inmate informant, or even disclosing information that does nothing more than cause a gang to suspect that another inmate may have provided information, would put that inmate at substantial risk of retaliation.” (*Id.* at ¶ 13.) Based on Mr. Knorr’s un rebutted testimony, the Court is convinced that UDC has a compelling interest in restricting access to Mr. Mata’s STG File.

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<sup>6</sup> Mr. Mata does not adequately dispute the facts set forth in UDC’s statement of undisputed material facts. First, Mr. Mata does not comply with the requirement of Rule 56 that he include a verbatim restatement of each of the moving party’s facts that he disputes. *See* Utah R.Civ.P. 56(a)(2). More importantly, most of Mr. Mata’s responses consist of arguments that are entirely unrelated to the facts to which he is responding. Finally, the facts that Mr. Mata does appear to try to directly address, he only attempts to dispute the facts in general terms and he fails to meet his burden to produce sufficient evidence to establish that genuine issues of material fact exist. *See Waddoups v. Amalgamated Sugar Co.*, 2002 UT 69, ¶ 31, 54 P.3d 1054.

<sup>7</sup> Mr. Knorr has been employed by UDC for more than 20 years. He has experience working in gang housing and spent five years as a member of UDC’s STG Intelligence Unit.

Mr. Mata has failed to challenge UDC's interest in restricting access. Moreover, aside from arguing general policy considerations (e.g. prison officials should obey the law), Mr. Mata has failed to articulate any particularized public interest that would favor disclosure. Simply put, nothing in the present record would enable a factfinder to conclude by clear and convincing evidence that the public interest in disclosure is at least equal to the interest favoring restriction of access. Accordingly, UDC is entitled to summary judgment.

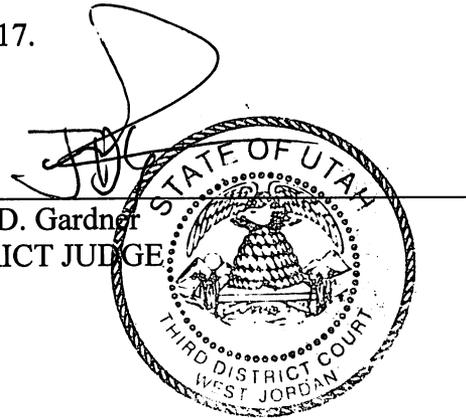
**CONCLUSION**

Based on the foregoing, the Court concludes that UDC properly classified Mr. Mata's STG File as protected under subsections (10), (11) and (13) of Utah Code Ann. § 63G-2-305. The Court further concludes that there is no genuine dispute as to any material fact with respect to the balancing of interests under Utah Code Ann. § 63G-2-406(2). Accordingly, UDC is entitled to judgment as a matter of law. Mr. Mata's Petition is hereby DISMISSED.

DATED this 13th day of September, 2017.

BY THE COURT:

James D. Gardner  
DISTRICT JUDGE



CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 160903298 by the method and on the date specified.

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09/13/2017

/s/ BRENDA L KLEINLEIN

Date: \_\_\_\_\_

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Deputy Court Clerk