

**FILED**

**NOT FOR PUBLICATION**

UNITED STATES COURT OF APPEALS

SEP 3 2019

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

In re: THE GEO GROUP, INC.,

No. 19-70014

THE GEO GROUP, INC.,

D.C. No. 3:17-cv-05806-RJB

Petitioner,

MEMORANDUM\*

v.

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF  
WASHINGTON, TACOMA,

Respondent,

STATE OF WASHINGTON,

Real Party in Interest.

Petition for Writ of Mandamus

Argued and Submitted August 26, 2019  
Seattle, Washington

Before: HAWKINS, McKEOWN, and BYBEE, Circuit Judges.

The GEO Group, Inc. (“GEO”) petitions for a writ of mandamus ordering the district court to vacate its discovery order compelling production of GEO’s financial

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

information. GEO contends this information is irrelevant to the State of Washington's (the "State") claims. We have jurisdiction under 28 U.S.C. § 1651 and deny the petition.

Mandamus is an extraordinary remedy and "only exceptional circumstances amounting to a judicial usurpation of power or a clear abuse of discretion will justify the invocation of this remedy." *Cheney v. U.S. Dist. Ct.*, 542 U.S. 367, 380 (2004) (internal quotation marks and citations omitted). To determine whether mandamus is warranted, this court weighs the five nonexhaustive factors set forth in *Bauman v. U.S. Dist. Ct.*, 557 F.2d 650 (9th Cir. 1977). Even if the petitioner satisfies all five factors, it is within the court's discretion to grant or deny the petition. *San Jose Mercury News, Inc. v. U.S. Dist. Court*, 187 F.3d 1096, 1099 (9th Cir. 1999).

Here, the district court denied GEO's motion to dismiss and GEO did not seek to certify the court's order for interlocutory review. However, GEO's petition amounts to just such an interlocutory challenge to that order. Further, although GEO fears production may lead to public disclosure of its proprietary financial information under the Washington Public Records Act, Wash. Rev. Code § 42.56 *et seq.*, the State represented at oral argument that it would oppose any such disclosure as falling within the Act's controversy exception, *see* Oral Argument at 19:15–20:00, *The GEO Group, Inc. v. USDC-WAWTA*, No. 19-70014 (9th Cir. Aug. 26,

2019), <https://www.youtube.com/watch?v=Z6mJ79crWT0> (citing Wash. Rev. Code § 42.56.290).

GEO's Motion to Supplement the Addendum [Dkt. # 33] is granted.

**DENIED.**