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UNITED STATES DISTRICT COURTS
EASTERN DISTRICT OF CALIFORNIA
AND NORTHERN DISTRICT OF CALIFORNIA
UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

RALPH COLEMAN, et al., Plaintiffs, v. GAVIN NEWSOM, et al., Defendants.	Case No. 2:90-CV-00520-KJM-DB **THREE JUDGE COURT**
MARCIANO PLATA, et al., Plaintiffs, v. GAVIN NEWSOM, Defendants.	Case No. C01-1351 JST **THREE JUDGE COURT** **[PROPOSED] ORDER GRANTING PLAINTIFFS' EMERGENCY MOTION TO MODIFY POPULATION REDUCTION ORDER**

Before this Court is Plaintiffs' Emergency Motion to Modify the Population Reduction Order. This Court, having considered the briefing, relevant legal authority, and the record in this case, including the expert declarations, **GRANTS** Plaintiffs' motion.

The Court finds that the requested relief therein meets the requirements of 18 U.S.C. § 3626. In so doing, the Court finds that the relief is narrowly drawn, extends no further than necessary to ensure the protection of the federal constitutional and statutory rights of Plaintiffs, and is the least intrusive means necessary to accomplish those objectives. The Court also finds that previous orders for less intrusive relief failed to remedy the deprivation of Plaintiffs' rights, and Defendants have had a reasonable amount of time to comply with previous court orders. Finally, this Court finds that crowding is the primary cause of the violation of Plaintiffs' rights, and no other relief will remedy the violation of these rights.

IT IS HEREBY ORDERED that:

1. Defendants shall reduce the population density in crowded congregate living spaces to a level that will permit social distancing by releasing to parole or post-release community supervision those class members who (a) are at low risk as determined by CDCR's risk assessment instrument or are serving a term for a non-violent offense and (b) are paroling within the year. Within this group, people with six months or less to serve and people who are at high risk of severe illness from COVID-19 should be prioritized.
2. Defendants shall release or relocate class members who are at high risk of severe illness from COVID-19. High risk individuals include: (a) people aged 65 and over; (b) people with chronic lung disease or moderate to severe asthma; (c) people who have severe heart conditions; (d) people who are immunocompromised (for example, due to cancer treatment, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, or prolonged use of immune-weakening medications); (e) people with severe obesity; (f) people with uncontrolled diabetes; (g) people with renal failure; (h) people with liver disease;

and (i) people who are pregnant. *See* Bien Decl. ¶ 51, Exh. 37 (Centers for Disease Control and Prevention, *Coronavirus Disease 2019 (COVID-19): People Who are at Higher Risk*, https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/people-at-higher-risk.html (last updated March 22, 2020)). Defendants may release these high-risk class members to parole or post-release community supervision and/or use the Governor's emergency powers to temporarily relocate them. *See generally* Bien Decl. ¶ 52, Exh. 38 at ¶¶ 1-6 (Governor Newsom March 4, 2020 Proclamation of a State of Emergency); Cal. Gov't Code § 8658.

3. **In the alternative**, Defendants shall release to parole or post-release community supervision as many people as necessary to achieve safe social distancing and sufficient space for quarantines and isolations.

4. Defendants shall submit a plan to implement these orders to the Court on or before April 1, 2020.

IT IS SO ORDERED.

Dated: March __, 2020

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HON. KIM MCLANE WARDLAW
UNITED STATES CIRCUIT JUDGE
NINTH CIRCUIT COURT OF APPEALS

Dated: March __, 2020

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HON. KIMBERLY J. MUELLER
CHIEF UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF CALIFORNIA

Dated: March __, 2020

_____
HON. JON S. TIGAR
UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA