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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

WILLIAM SASSMAN,

Plaintiff,

v.

EDMUND G. BROWN, JR., Governor
of California, and JEFFREY A. BEARD,
Secretary of the California Department
of Corrections and Rehabilitation, in
their official capacities, and DOES 1-
10,

Defendants.

No. 2:14-cv-01679-MCE-KJN

MEMORANDUM AND ORDER

Plaintiff William Sassman (“Plaintiff”) initiated this action against Defendants Edmund G. Brown, Jr., Governor of California, and Jeffrey A. Beard, Secretary of the California Department of Corrections and Rehabilitation (“CDCR”), in their official capacities (collectively “Defendants”). Plaintiff claimed Defendants’ exclusion of men from California’s Alternative Custody Program (“ACP”), as authorized by California Penal Code section 1170.05, violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. On September 9, 2015, this Court granted summary judgment in favor of Plaintiff and directed Defendants to permit male inmates to apply to the ACP. ECF No. 77. Presently before the Court are Defendants’

1 Motion to Modify Deadlines (ECF No. 83) and Plaintiff's Motion to Enforce Judgment
2 (ECF No. 88). For the following reasons, the Motion to Modify Deadlines is GRANTED,
3 and the Motion to Enforce Judgment is DENIED as moot.¹

4
5 **ANALYSIS²**
6

7 Defendants move pursuant to Federal Rule of Civil Procedure Rule 60(b),³ for
8 additional time in which to comply with the Court's September 9, 2015, order requiring
9 that they allow male inmates to participate in the ACP. In that order, the Court directed
10 as follows:

11 Defendants are hereby enjoined and prohibited from applying
12 and/or enforcing the female-only provisions of California
13 Penal Code § 1170.05(a) and (c) in the implementation and
14 administration of the ACP. CDCR shall immediately cease
15 denying admission to the ACP on the basis that an applicant
16 is male. Male prisoners shall be accepted into the ACP if
17 they are otherwise eligible under Penal Code section 1170.05
and the implementing regulations. Within thirty (30) calendar
days of the electronic filing of this Order, CDCR shall modify
its website and any application forms, regulations, and
materials provided to prisoners and the public about the ACP
to remove any reference to the requirement that a prisoner
must be female to apply or participate.

18 ECF No. 77. According to Defendants, they have begun accepting applications from
19 male inmates, but CDCR's current infrastructure is not yet equipped to deal with the
20 influx of applicants from its male prisons and camps. Plaintiff, of course, disagrees and
21 seeks immediate enforcement of the judgment. Although the Court is sympathetic to
22 Plaintiff's position, it finds Defendants' arguments more persuasive.

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¹ Because oral argument would not have been of material assistance, the Court ordered this
matter submitted on the briefs. E.D. Cal. Local R. 230(g).

25 ² The facts pertaining to the ACP and the State's exclusion of men from that program are set forth
26 in detail in the Court's memorandum and order granting Plaintiff's motion for summary judgment. See
ECF No. 77.

27 ³ All further references to "Rule" or "Rules" are to the Federal Rules of Civil Procedure unless
28 otherwise noted.

1 Rule 60(b) provides for reconsideration of a final judgment or any order where
2 one of more of the following is shown: (1) mistake, inadvertence, surprise, or excusable
3 neglect; (2) newly discovered evidence which, with reasonable diligence, could not have
4 been discovered within twenty-eight days of entry of judgment; (3) fraud,
5 misrepresentation, or misconduct of an opposing party; (4) voiding of the judgment;
6 (5) satisfaction of the judgment; and (6) any other reason justifying relief. Fed. R. Civ. P.
7 60(b). The final provision of Rule 60(b) permits courts to grant relief “whenever such
8 action is appropriate to accomplish justice.” Mackey v. Hoffman, 682 F.3d 1247, 1251
9 (9th Cir. 2012) (citations and internal quotation marks omitted). The moving party must
10 show that “extraordinary circumstances” warrant relief. Liljeberg v. Health Servs.
11 Acquisition Corp., 486 U.S. 847, 863-64 (1988).

12 In this case, extraordinary circumstances exist to permit Defendants additional
13 time in which to comply with the Court’s decision. One very concrete impediment to an
14 immediate implementation of the Court’s order is the dramatic increase in both
15 applications and potential participants, now that the ACP is open to all prisoners. More
16 specifically, when the Court issued its order in September, there were 64 female
17 participants (out of a female inmate population of 5,200) in the ACP, and CDCR received
18 from all four female institutions a total of approximately 100 new applications per month.
19 Defs.’ Mot. at 2. Over the next two months, Defendants received more than 1,500
20 applications from its 35 male institutions and camps, and CDCR anticipates that, going
21 forward, it will receive approximately 800 additional applications per month from male
22 prisoners. Defs.’ Mot. at 4; Defs.’ Reply at 1. Existing program resources are simply
23 insufficient to accommodate this demand. Defendants, however, have concluded that
24 with some additional time, they will be able to allocate resources and train staff to ensure
25 the effective roll-out of what was a small program on a large-scale basis.

26 Indeed, the Court is satisfied that Defendants are taking the necessary steps to
27 comply with this Court’s decisions and notes that they have already implemented those
28 changes that were immediately feasible. For example, CDCR has directed its male

1 institutions to begin accepting applications, it has modified its website to remove
2 references limiting the ACP to females only, and it has begun modifying its forms and
3 other materials. There are nonetheless changes that Defendants contend require an
4 additional six months, such as: modification and promulgation of appropriate
5 regulations, development of evaluation criteria directed at male applicants, location of
6 community providers, allocation of financial resources, and identification and training of
7 CDCR staff. The Court finds that Defendants' representations are credible and that six
8 months is a reasonable period of time to roll out this modified program. Accordingly, the
9 Court hereby extends the deadlines included in its September 9, 2015, order by six
10 months to April 9, 2016.⁴

11 The Court understands Plaintiff's desire to expedite review of his application. But,
12 as the Court has indicated previously, it is not in a position to direct the CDCR to give
13 Plaintiff's request for release any favored treatment. See ECF No. 38 at 14 ("Given the
14 discretionary nature of admittance into the ACP, Plaintiff has not shown that injunctive
15 relief will result in him being accepted into the program."). In any event, the Court finds
16 that Defendants have demonstrated extraordinary circumstances that warrant additional
17 time for compliance. Indeed, the potential release of prisoners to serve the remainder of
18 their sentences in the community is a sensitive undertaking that should not be
19 improperly rushed. Given that Defendants seek only a relatively short extension of time
20 in which to implement the Court-ordered changes to their Program, time in which they
21 can reallocate resources and ensure proper staffing and training is available across its
22 male institutions and in the community, relief is proper here.

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27 ⁴ The Court determined this date is proper because it originally allowed Defendants a thirty-day
28 compliance period. Extending that compliance period by six months would essentially set a new deadline
seven months after the Court's original order was issued. The Court declines Defendants' request to set
the modified deadlines based on the issuance of the current order.


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CONCLUSION

For the reasons just stated, Defendants' Motion to Modify Deadlines (ECF No. 83) is GRANTED, and Plaintiff's Motion to Enforce Judgment (ECF No. 88) is DENIED. The deadlines set forth in the conclusion of the Court's September 9, 2015, Memorandum and Order (ECF No. 77), are hereby EXTENDED to April 9, 2016.

IT IS SO ORDERED.

Dated: December 15, 2015


MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT