



1 July 10, 2002. The Court has ordered that monitoring of medical and mental health services  
2 cease in the *Madrid* context but continue as part of the *Plata v. Brown*, No. C01-1351 TEH  
3 (N.D. Cal.), and *Coleman v. Brown*, No. CIV S-90-0520 LKK JFM P (E.D. Cal.), statewide  
4 class actions. The final phase of *Madrid* is the monitoring of CDCR’s investigations and  
5 disciplinary process. As the Court has stated, “effective investigation and discipline systems”  
6 are considered “the final cornerstone of Defendants’ use-of-force remedy.” Order 3, Nov. 16,  
7 2006, ECF No. 2011. The Special Master recommended an end to such monitoring and the  
8 termination of the remaining *Madrid* use-of-force orders in his October 16, 2008 report. At  
9 that time, Plaintiffs did not object to the cessation of monitoring. However, they argued that  
10 orders related to the use of force should not be terminated because Defendants had yet to file  
11 notice that they had implemented a statewide use-of-force policy – notice mandated by this  
12 Court on May 14, 2008. On August 30, 2010, Defendants notified the Court that the  
13 statewide use-of-force policy had been adopted and implemented. In a document filed on  
14 January 21, 2011, Plaintiffs stated that they do not oppose termination of force-related orders  
15 and dismissal of this case.

16 At a hearing on March 3, 2011, the Court heard from the parties, the Office of the  
17 Inspector General (“OIG”), and Court Expert Michael Gennaco regarding the effectiveness  
18 of the remedies in this case and whether current conditions are likely to give way to  
19 constitutional violations should the Court withdraw its oversight. CDCR pointed out that it  
20 has operated since 2008 without active court monitoring, and that CDCR leadership intends  
21 to keep the *Madrid* reforms in place. CDCR stated its commitment to working with OIG’s  
22 Bureau of Independent Review (“BIR”), which oversees CDCR’s personnel investigations  
23 and discipline. It also represented to the Court that CDCR has contracted with Mr. Gennaco  
24 to provide code-of-silence training to correctional officer cadets. CDCR pledged to continue  
25 that training.

26 At the hearing and in papers filed with the Court, Plaintiffs and OIG expressed  
27 concern about the sustainability of the *Madrid* reforms. Plaintiffs stated that BIR oversight is  
28 critical to maintaining the progress made during the long history of this case and expressed

1 concern about Defendants' commitment to BIR oversight. However, they acknowledged that  
2 the conditions at Pelican Bay do not currently violate the constitution.

3 This Court, too, is concerned about a reversion to the unconstitutional practices that  
4 once existed at Pelican Bay. The Court is proud of the work done during the life of this case.  
5 Pelican Bay was once a place where prison officials used force "for the very purpose of  
6 inflicting punishment and pain." *Madrid*, 889 F. Supp. at 1200. BIR's oversight of prison  
7 personnel investigations and discipline helped change these conditions. The Court hopes that  
8 CDCR will honor its commitment to continue working with BIR, and that it will oppose any  
9 effort to dismantle BIR's oversight. But the Court cannot retain jurisdiction to see that this is  
10 done. Accordingly, all use-of-force orders in this case are terminated. The Court ends its  
11 jurisdiction over this case, which is **DISMISSED WITH PREJUDICE**. The Court is  
12 confident that should the *Madrid* protocols be abandoned and conditions at Pelican Bay  
13 devolve to unconstitutional levels, counsel will come forward to challenge those conditions  
14 and relate a new lawsuit to this case.

15 The parties agree that Defendants shall pay Plaintiffs' counsel \$5,429.45 as the final  
16 amount of attorneys fees and costs for their work in this action.

17 The balance of monies being held for this case in the Court Registry Investment  
18 System, plus any accrued interest, shall be returned to CDCR. The returned funds are to be  
19 made payable to California Department of Corrections and Rehabilitation. They are to be  
20 sent to Attention: Accounting Services, P.O. Box 187019, Sacramento, California, 95818-  
21 7019.

22  
23 **IT IS SO ORDERED.**

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25 Dated: 3/21/11

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28 THELTON E. HENDERSON, JUDGE  
UNITED STATES DISTRICT COURT