

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ERNESTO LIRA,

No. C 00-905 SI

Plaintiff,

**ORDER DENYING DEFENDANTS'
MOTION FOR *CRATEO* INDICATION**

v.

DIRECTOR OF CORRECTIONS, *et al.*,

Defendants.

On October 14, 2008, the Court held a hearing on defendants' motion for a *Crateo* indication. Defendant Tilton seeks an indication that this Court would be inclined to entertain a motion to certify an interlocutory appeal from the Court's denial of defendants' motion for summary judgment if the Ninth Circuit were to grant a limited remand to allow defendant to file such a motion. Defendant would like the Ninth Circuit to decide: (1) whether plaintiff's injunctive and declaratory claims are moot as a result of plaintiff's discharged status; (2) the proper standard for determining whether prison procedures for reviewing gang validation and segregation satisfy procedural due process rights; (3) the legal standard for determining whether responses to inmate appeals violate constitutional rights; and (4) the procedural requirements for providing an inmate with notice of his placement in segregated housing.

The Court DENIES defendant's motion because defendant has not shown that there are "extraordinary circumstances" justifying an interlocutory appeal under 28 U.S.C. § 1292(b). *Coopers & Lybrand v. Livesay*, 437 U.S. 463, 474-45 (1978). This case has been pending for 8 years, and trial is scheduled for January, 2009. An interlocutory appeal is not likely to materially speed the termination of this litigation, and instead would substantially prolong the ultimate resolution of this litigation.

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Accordingly, the Court DENIES defendant's motion. (Docket No. 340).

IT IS SO ORDERED.

Dated: October 14, 2008



SUSAN ILLSTON
United States District Judge