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3 IN THE UNITED STATES DISTRICT COURTS
4 FOR THE EASTERN DISTRICT OF CALIFORNIA
5 AND THE NORTHERN DISTRICT OF CALIFORNIA
6 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
7 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE
8

9 RALPH COLEMAN, et al.,
10 Plaintiffs,
11 v.
12 ARNOLD SCHWARZENEGGER,
13 et al.,
14 Defendants.

NO. CIV S-90-0520 LKK JFM P
THREE-JUDGE COURT

15 MARCIANO PLATA, et al.,
16 Plaintiffs,
17 v.
18 ARNOLD SCHWARZENEGGER,
19 et al.,
20 Defendants.

NO. C01-1351 TEH
THREE-JUDGE COURT
ORDER GRANTING IN PART
INTERVENORS' MOTION FOR
RECONSIDERATION AND
ORDER CONSOLIDATING
PROCEEDINGS

21
22 On January 28, 2008, the Republican Assembly and Senate Intervenors, District
23 Attorney Intervenors, and Sheriff, Probation, Police Chief, and Corrections Intervenors
24 (collectively, "Intervenors") filed a motion for reconsideration of this court's October 10,
25 2007 Order Bifurcating Proceedings and Setting Deadlines for Phase I and November 9,
26 2007 Order on Motion for Reconsideration and/or Clarification. Defendants filed a statement
27 of non-opposition to the motion on February 4, 2008, and Plaintiffs filed a statement of non-
28 opposition on February 7, 2008.

1 After reviewing the Intervenor’s arguments, the court rejects Intervenor’s contention
2 that defendants are inadequate representatives of the Intervenor’s interests on the questions
3 of whether “crowding is the primary cause of the violation of a Federal right” and whether
4 “no other relief [other than a prisoner release order] will remedy the violation of the Federal
5 right.” Oct. 10, 2007 Order at 3 (quoting 18 U.S.C. §§ 3626(a)(3)(E)(i)-(ii)). The court
6 further rejects the Intervenor’s repeated assertion that this court erred when it bifurcated
7 these proceedings into two phases and limited the Intervenor’s participation to the second
8 phase.

9 Nonetheless, upon careful reconsideration of the court’s prior scheduling orders and
10 of the procedures that are most likely to expedite the proceedings, including discovery and
11 trial, the court hereby GRANTS IN PART the Intervenor’s motion for reconsideration.
12 Intervenor shall be allowed to participate in all stages of these proceedings, subject to the
13 following limitations:

14 1. Intervenor’s participation in discovery will be prospective only. Intervenor will
15 not seek to reopen any matter unless they are able to demonstrate good cause. The
16 magistrate judge shall determine whether this standard has been met in the first instance.

17 2. All discovery exchanged between plaintiffs and defendants to date shall be
18 provided to intervenors as soon as possible.

19 3. One attorney will represent all intervenors for further discovery propounded by
20 intervenors. Similarly, one attorney will represent all intervenors at future depositions. This
21 attorney may be a different attorney on each occasion.

22 4. If any discovery is directed to a particular group of intervenors (e.g., probation
23 officers or Republican legislators), counsel representing that group of intervenors shall
24 respond.

25 5. At trial, one attorney may question each witness on behalf of all intervenors. The
26 same attorney need not question all witnesses. Intervenor will, however, present their
27 evidence and question other parties’ witnesses through not more than a total of three different
28 attorneys throughout the trial.

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Dated: 02/08/08



THELTON E. HENDERSON
SENIOR UNITED STATES DISTRICT JUDGE
NORTHERN DISTRICT OF CALIFORNIA