

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

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5 MARCIANO PLATA, et al.,
6 Plaintiffs,
7 v.
8 EDMUND G. BROWN JR., et al.,
9 Defendants.

NO. C01-1351 TEH

ORDER OVERRULING
DEFENDANTS' OBJECTIONS
TO RECEIVER'S TWENTY-
SECOND TRI-ANNUAL
REPORT

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11 On February 13, 2013, Defendants filed objections to the Receiver's Twenty-Second
12 Tri-Annual Report ("Report"), which was filed on January 25, 2013. Defendants object to
13 two statements in the Report – (1) that "[o]vercrowding and its consequences are and have
14 been a chronic, widespread and continuing problem for almost twenty years," Report at 29,
15 and (2) that "there is no persuasive evidence that a constitutional level of medical care has
16 been achieved system-wide," *id.* at 30 – and request that they be stricken. Both the Receiver
17 and Plaintiffs filed timely responses following this Court's February 14, 2013 order.

18 After carefully considering the report, the objections, and the responses thereto, the
19 Court now OVERRULES the objections and DENIES the request to strike. Defendants have
20 cited no rule or other legal authority to support their request to strike statements from the
21 Receiver's report. Defendants disagree with the Receiver's statements, but their objections
22 go to the weight of the Receiver's conclusions and not to whether the Receiver is entitled to
23 include them in his reports to the Court. Whether the consequences of overcrowding
24 continue to be a problem, and whether there is persuasive evidence that a constitutional level
25 of medical care has been achieved systemwide, are questions that will be addressed at the
26 appropriate time – by stipulation or by motion, by this Court or by the three-judge court
27 convened in this case and *Coleman v. Brown*, Case No. CIV S-90-0520 LKK JFM P (E.D.
28 Cal.). Nothing in this order prevents Defendants from contesting the weight that should be

1 given to the Receiver's conclusions or from presenting evidence to support a contrary
2 conclusion when the issues are properly before this or the three-judge court.

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IT IS SO ORDERED.

Dated: 02/28/13



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT