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

ALFONZO PICKENS,

No. C 07-6306 WHA (PR)

Plaintiff,

**ORDER OF DISMISSAL**

v.

S. EVANS, Warden,

Defendant.

\_\_\_\_\_ /  
In this civil rights case plaintiff contends that he should be released because of unconstitutional conditions created by overcrowding. This issue, including the possibility of a prisoner release order, is currently being considered by a three-judge court in the class action *Plata v. Schwarzenegger*, No. C 01-1351 TEH.

Individual suits for injunctive and equitable relief from alleged unconstitutional prison conditions cannot be brought where there plaintiff is a member of the class in a pending class action suit involving the same subject matter. *McNeil v. Guthrie*, 945 F.2d 1163, 1165 (10th Cir. 1991); *Gillespie v. Crawford*, 858 F.2d 1101, 1103 (5th Cir. 1988) (en banc). "Individual members of the class and other prisoners may assert any equitable or declaratory claims they have, but they must do so by urging further actions through the class representative and attorney, including contempt proceedings, or by intervention in the class action." *Id.*

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United States District Court  
For the Northern District of California

1 For the reasons set out above, this case is **DISMISSED**. The clerk shall close the file.<sup>1</sup>

2 **IT IS SO ORDERED.**

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4 Dated: February 7, 2008.

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7 WILLIAM ALSUP  
8 UNITED STATES DISTRICT JUDGE

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27 <sup>1</sup> Counsel for the plaintiff class in *Plata* is: Donald H. Specter, Prison Law Office,  
28 General Delivery, San Quentin, CA 94964.