

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

United States District Court  
Northern District of California

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

JOHN ARMSTRONG, et al.,  
Plaintiffs,  
v.  
GAVIN C. NEWSOM, et al.,  
Defendants.

Case No. 94-cv-02307 CW  
PRELIMINARY INJUNCTION  
(Re: Dkt. Nos. 2978, 2979)

For the reasons set forth in the Court's order granting in part Plaintiffs' motion for a preliminary injunction, the Court hereby orders as follows:

Inmate 1 and Inmate 2<sup>1</sup> (Witnesses) have been transferred out of R.J. Donovan Correctional Facility (RJD) pursuant to the Court's temporary restraining order and, while this preliminary injunction is in effect, they shall remain housed as follows: Inmate 2 shall remain at the Mental Health Crisis Bed (MHCB) at California Men's Colony (CMC) on a temporary basis pending placement at California Health Care Facility (CHCF) once it is

<sup>1</sup> The Court finds that the parties have shown that compelling reasons exist for using pseudonyms to maintain the names of the inmates as confidential. The names of the inmates will be identified in a separate order, which will be filed under seal.

1 open for transfers, and Inmate 1 shall remain at an Enhanced  
2 Outpatient Program housing unit on Facility D at Mule Creek State  
3 Prison (MCSP).

4 While housed at these facilities and this preliminary  
5 injunction remains in effect:

6 (1) Defendants shall have the ADA coordinator at the new  
7 facility meet, face to face, taking appropriate Covid-  
8 19 precautions, with each Witness on a weekly basis for  
9 the first thirty days, then on a bi-weekly basis  
10 thereafter, to discuss whether the Witness has any  
11 security concerns or has faced any retaliation. The  
12 ADA coordinator shall document these interactions on a  
13 Form 128-B, signed by the Witness, and Defendants shall  
14 produce the completed Form 128-B to Plaintiffs' counsel  
15 within twenty-four hours;

16 (2) Defendants shall provide, on a weekly basis for the  
17 first thirty days, then on a monthly basis or sooner if  
18 requested, for a confidential, attorney-client  
19 telephone call between each Witness and Plaintiffs'  
20 counsel;

21 (3) Defendants shall not transfer either of the Witnesses  
22 to another facility other than the facilities set forth  
23 above unless (1) Plaintiffs' counsel stipulate to the  
24 transfer; (2) Defendants obtain an order of the Court  
25 permitting the transfer; or (3) the transfer is  
26 necessary on an emergency basis to protect the health  
27 or safety of the Witness being transferred. If a  
28 transfer is necessary on an emergency basis to protect

1 the health or safety of the Witness being transferred,  
2 Defendants do not need advance approval from  
3 Plaintiffs' counsel or an order of the Court. In such  
4 circumstances, Defendants shall provide Plaintiffs'  
5 counsel with notice of the transfer as soon as possible  
6 and no later than twenty-four hours following the  
7 transfer. The parties shall then meet and confer  
8 within twenty-four hours to discuss the Witness's  
9 placement. Transfer pursuant to this paragraph shall,  
10 if possible, be to a placement consistent with the  
11 criteria set forth in the Court's order of July 2,  
12 2020, which are as follows: (1) the placement is not  
13 RJD; (2) the placement is not administrative  
14 segregation or any other type of punitive housing; (3)  
15 the placement is not at a higher security level than  
16 the Witness's current classifications; (4) the  
17 placement provides at least equivalent access to  
18 programming opportunities, including compliance with  
19 the Coleman Program Guide; (5) the placement is as safe  
20 in light of COVID-19 risks as possible; (6) if the  
21 placement is custodial, complete surveillance camera  
22 coverage is preferable. If, pursuant to this  
23 paragraph, Defendants cannot transfer the Witness to a  
24 placement that meets those criteria, Defendants shall  
25 take all available efforts to return the Witness to a  
26 placement consistent with those criteria as soon as  
27 possible.

//

United States District Court  
Northern District of California

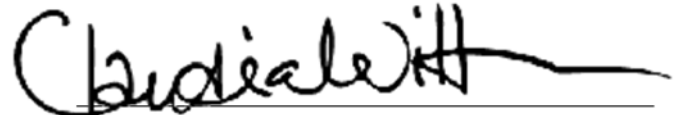
1 (4) Defendants shall facilitate confidential legal calls  
2 between each Witness and Plaintiffs' counsel as  
3 requested by Plaintiffs' counsel and shall take such  
4 other steps as are necessary to ensure that each  
5 Witness is safely housed and is not subjected to  
6 retaliation for assisting with the enforcement motions  
7 or participating in these proceedings.

8 No security shall be required because the Witnesses are  
9 incarcerated and presumably indigent.

10 This preliminary injunction shall remain in effect for ninety  
11 days of the date of this order. See 18 U.S.C. § 3626(a)(2).

12 IT IS SO ORDERED.

13 Dated: July 30, 2020



CLAUDIA WILKEN  
United States District Judge

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28