

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

KENYON NORBERT, et al.,

Plaintiffs,

v.

SAN FRANCISCO SHERIFF'S
DEPARTMENT, et al.,

Defendants.

Case No. 19-cv-02724-SK

**STIPULATION AND ORDER FOR
PARTIAL STAY OF INJUNCTION
AND STAY OF APPEAL**

Regarding Docket No. 137

STIPULATION

WHEREAS the Court issued a preliminary injunction requiring that the City and County of San Francisco (“City”) provide (1) one hour a day, five days a week, of recreation time for inmates in administrative segregation, except under certain circumstances; and (2) one hour per week of “direct sunshine” for inmates housed in the jail for more than four consecutive years (ECF No. 110);

WHEREAS the City is currently complying with the portions of the preliminary injunction requiring one hour a day, five days a week, of recreation time for inmates in administrative segregation;

WHEREAS the City has moved for a stay and filed a notice of appeal with regard to the portion of the injunction requiring access to direct sunlight (ECF No. 128);

WHEREAS without a stipulated stay, the City must move forward with its motion to stay and appeal to ensure that the City does not become in violation of the Court’s injunction order;

WHEREAS both parties are working towards a settlement of this matter, and require time to assess, negotiate and seek approval of the terms any settlement;

United States District Court
Northern District of California

1 WHEREAS the parties agree that a short stay of the “direct sunlight” portion of the Court’s
2 injunction order will allow the parties to explore a settlement without undue expenditure of time
3 and resources;

4 WHEREAS the Court has ordered that plaintiffs submit a proposed form of consent for
5 blood draws from named plaintiffs to the City by March 6, 2020, and that the parties submit either
6 an agreed form or competing forms to the Court by March 17, 2020 (ECF No. 124);

7 WHEREAS a settlement of this matter may address the issues raised by the Court’s order
8 regarding the consent forms and may address plaintiffs’ request for medical screening;

9 WHEREAS the parties are also negotiating a settlement of the matter entitled *Poot v. City*
10 *and County of San Francisco*, Case No. 19-cv-02722-YGR, which also addresses jail conditions;

11 WHEREAS the City intends to maintain the sleep schedule set forth in the City’s
12 mediation statement served on plaintiffs on February 20, 2020; and agrees that while the stay is
13 pending the City will inform plaintiffs’ counsel of any intent to change that schedule;

14 WHEREAS the City intends to continue complying with the Court order requiring one
15 hour a day, five days a week, of recreation time for inmates in administrative segregation;

16 WHEREAS the parties agree that their ongoing settlement discussions constitute good
17 cause and substantial need to seek an extension of time to file an appeal;

18 NOW THEREFORE THE PARTIES STIPULATE as follows:

19 1. The City’s motion for stay shall be continued for approximately a month and a half to
20 May 18, 2020.

21 2. Plaintiffs opposition shall be due on April 24, 2020, and defendants’ reply shall be due
22 on May 8, 2020.

23 3. The parties shall jointly request that the Court of Appeal continue all briefing deadlines
24 for 90 days, including the briefing schedule for plaintiffs’ cross-appeal if plaintiffs should choose
25 to initiate one.

26 4. The portion of the District Court’s injunction requiring that the City provide inmates
27 who have been housed continuously in the County Jail for more than four years with access to
28 “direct sunlight” shall be stayed until the court rules on defendants’ motion for stay.

Dated: March 10, 2020

By: **/s/ Yolanda Huang
YOLANDA HUANG
Attorneys for Plaintiffs

***Pursuant to Civil L.R. 5-1(i)(3), the electronic signatory has obtained approval from this signatory*

United States District Court
Northern District of California

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

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED:

1. The City’s motion for stay shall be continued for approximately a month and a half to May 18, 2020.

2. Plaintiffs opposition shall be due on April 24, 2020, and defendants’ reply shall be due on May 8, 2020.

3. The parties shall jointly request that the Court of Appeal continue all briefing deadlines for 90 days, including the briefing schedule for plaintiffs’ cross-appeal if plaintiffs should choose to initiate one.

4. The portion of the District Court’s injunction requiring that the City provide inmates who have been housed continuously in the County Jail for more than four years with access to “direct sunlight” shall be stayed until the court rules on defendants’ motion for stay.

5. The deadline to submit proposed consent forms for blood tests is continued for approximately one month and a half. Plaintiffs must provide to defendants a proposed consent form for the blood draw by April 24, 2020. Defendants must provide their proposed form of consent for the blood draw by May 1, 2020. If the parties agree to the form, it can be submitted by May 5, 2020 to the Court. If the parties do not agree to the form, they may submit competing proposals with a two-page letter of explanation to the Court by May 5, 2020.

6. If either party determines that settlement discussions have irretrievably broken down, said party shall so inform the Court.

7. If the Board of Supervisors rejects any proposed settlement, the City shall so inform the Court, and request a Case Management Conference as soon as possible.

IT IS SO ORDERED.

Dated: March 11, 2020



SALLIE KIM
United States Magistrate Judge