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10 IN THE UNITED STATES DISTRICT COURTS  
11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
12 AND THE NORTHERN DISTRICT OF CALIFORNIA  
13 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES  
14 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE

15 RALPH COLEMAN, et al.,

16 Plaintiffs,

vs.

17 ARNOLD SCHWARZENEGGER, et al.,

18 Defendants

) No. Civ S 90-0520 LKK-JFM P  
) **THREE-JUDGE COURT**

) **DECLARATION OF JAMES AUSTIN IN**  
) **SUPPORT OF PLAINTIFFS' RESPONSE TO**  
) **DEFENDANTS' SEPTEMBER 17, 2012**  
) **RESPONSE TO SEPTEMBER 7, 2012,**  
) **ORDER**

19 MARCIANO PLATA, et al.,

20 Plaintiffs,

21 vs.

22 ARNOLD SCHWARZENEGGER, et al.,

23 Defendants

) No. C01-1351 THE  
) **THREE-JUDGE COURT**

1 I, James Austin, hereby declare:

2 1. I am a criminologist retained by Plaintiffs' counsel in this action. I have previously  
3 submitted expert reports in this action, and have testified before the Court. I have personal  
4 knowledge of the matters set forth herein and if called as a witness I could and would  
5 competently so testify.

6 2. I have reviewed the State's "Spring 2012 Population Projections," which are  
7 published on CDCR's website, as well as the data underlying those projections, including data  
8 reflecting population changes between October 1, 2011 (the date that AB 109 Realignment  
9 went into effect) and April 27, 2012. I have also reviewed prison admission numbers since  
10 January 2011. Although I have requested prison release data for that same timeframe, I have  
11 not received it. Nor have CDCR's data analysts responded to my request to confer about the  
12 data I have received.

13 3. Based on my review of the data that CDCR has provided, it appears that prison  
14 admissions are stabilizing, and that the population reduction impacts from Realignment are  
15 nearing a "plateau." It further appears that, if the admissions data remains constant, the  
16 population of the 33 in-state prisons will be approximately 118,000-119,000 in June 2013, with  
17 an additional 8,000-plus prisoners in out-of-state prisons. I will need additional information,  
18 including access to additional CDCR databases and the ability to confer with CDCR's data  
19 analysts about their population projection models, in order to verify my preliminary estimates.

20 4. CDCR currently has two tools by which it can assess each prisoner's risk of  
21 recidivism: the Correctional Offender Management and Profiling Alternative Sanctions  
22 (COMPAS) assessment tool, and the California Static Risk Assessment Instrument (CSRA).  
23 Both of these assessment tools have been validated by independent academic studies as reliable  
24 predictors of recidivism rates. Both of these tools will assess risk more accurately than the  
25 criteria used by the State in its realignment program, which relies only on the offense(s)  
26 committed by the offender. Both COMPAS and CSRA use additional information that makes  
27 the assessment of risk more reliable.

28

1 5. I am informed and believe that every California prisoner has already been assessed  
2 by the CSRA, and that many have been assessed by COMPAS. Accordingly, the State  
3 currently possesses reliable and valid risk data about which prisoners are unlikely to reoffend if  
4 released.

5 6. It is a relatively simple task to design a program to provide additional good-time  
6 credits for prisoners who do not pose a high risk of recidivating for a serious and violent crime.  
7 I have worked with many states to create such systems (Nevada, Illinois, Maryland, Arkansas,  
8 Louisiana, and Kentucky to name a few) If the State works diligently, there is no reason it  
9 could not create and implement such a program in 30-60 days.

10 7. If the Court were to order Plaintiffs to design a plan for meeting the population  
11 reduction targets, by for example, providing additional good-time credits to non-dangerous and  
12 otherwise qualified prisoners, I could create such a system within 30 days, provided that I have  
13 full and immediate access to current data about CDCR's population, admissions, and releases,  
14 and provided I have the ability to confer freely with CDCR's data analysts about CDCR's  
15 population projection models.

16 8. Such a program could then be implemented within 60 days of its design, and serve to  
17 start lowering the CDCR institutional prison population and thus meet the requirements of the  
18 court order without jeopardizing public safety. If the credits are awarded retroactively, they  
19 will have an even greater initial impact on the crowding levels.

20 I declare under penalty of perjury under the laws of the State of California and of the  
21 United States of America that the foregoing is true and correct, and that this declaration was  
22 executed September 21, 2012, in Los Angeles, California.

23  
24  
25 /s/

James Austin

26  
27 (approval to e-file obtained by Plaintiffs' counsel)