

NOT FOR PUBLICATION

JUN 03 2010

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

RICHARD M. GILMAN,

Plaintiff - Appellee,

v.

ARNOLD SCHWARZENEGGER,
Governor of California and ROBERT
DOYLE, Chairman of the Board of Parole
Hearings,

Defendants - Appellants.

No. 09-16087

D.C. No. 2:05-cv-00830-LKK-
GGH

MEMORANDUM*

Appeal from the United States District Court
for the Eastern District of California
Lawrence K. Karlton, District Judge, Presiding

Argued and Submitted April 13, 2010
San Francisco, California

Before: KOZINSKI, Chief Judge, NOONAN and CALLAHAN, Circuit Judges.

The district court did not err in certifying the class, regardless of whether we review its decision de novo or for abuse of discretion. Viewed as a whole, the

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

complaint constitutes a challenge to “a system-wide practice or policy that affects all of the putative class members.” *Armstrong v. Davis*, 275 F.3d 849, 868 (9th Cir. 2001). Because the claims of the named plaintiffs are coextensive with those of the rest of the class with regard to the Board of Parole Hearings, the plaintiffs’ claims are sufficiently typical as well. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1020 (9th Cir. 1998). Finally, the plaintiffs satisfy Rule 23(b)(2), as they request an injunction imposing standards for parole hearings that would apply across the entire class. *See Walters v. Reno*, 145 F.3d 1032, 1047 (9th Cir. 1998).

We express no view as to whether further sub-classifications may be necessary or appropriate.

AFFIRMED.