

Coleman v. Schwarzenegger

United States District Court for the Eastern District of California

May 31, 2007, Decided ; June 1, 2007, Filed

No. CIV S-90-0520 LKK JFM P

Reporter: 2007 U.S. Dist. LEXIS 40004

RALPH COLEMAN, et al., Plaintiffs, vs. ARNOLD SCHWARZENEGGER, et al., Defendants.

Subsequent History: Motion granted by Coleman v. Schwarzenegger, 2007 U.S. Dist. LEXIS 56043 (E.D. Cal., July 23, 2007)

Prior History: Coleman v. Schwarzenegger, 2007 U.S. Dist. LEXIS 40586 (E.D. Cal., May 23, 2007)

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For Jack Reagan, Chief of Inmate Appeals, Defendant: Lisa Anne Tillman, Office of the Attorney General, Sacramento, CA.

For John S Zil, MD, Nadim Khoury, MD, James Gomez, Director of CDC, Joseph Sandoval, Secretary of Youth and Corrections, Stephen W Mayberg, Ph.D., Director of the Department of Mental Health, Michael Genest, Director of CA Dept of Finance, Defendants: Lisa Anne Tillman, LEAD ATTORNEY, Office of the Attorney General, Sacramento, CA.; Misha D Igra, LEAD ATTORNEY, California Department of Justice, Sacramento, CA.; Van Kamberian, LEAD ATTORNEY, Attorney General's Office of the State of California, Sacramento, CA.

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For California Medical Association, Amicus: Misha D Igra, LEAD ATTORNEY, California Department of Justice, Sacramento, CA.

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For AFSCME Local 2620, Amicus: Andrew H Baker, LEAD ATTORNEY, Beeson Tayer and Bodine, Oakland, CA.

For Psychology Shield, Attorneys for Amicus Curiae, Psychology Shield, Amicus: Robert M. Dato, LEAD ATTORNEY, Theodora Oringer Miller and Richman PC, Costa Mesa, CA.

For California Psychiatric Association, Amicus: Paul Andrew Hemesath, Nossaman, Guthner, Knox & Elliott LLP, Sacramento, CA.

For SEIU Local 1000, Amicus: Rocco Robert Paternoster, LEAD ATTORNEY, [*4] Service Employees International Union (SEIU), Sacramento, CA.

For Union of American Physicians and Dentists, Amicus: Andrew J. Kahn, Davis, Cowell & Bowe, LLP, San Francisco, CA.

Michael J Hicks, Movant, Pro se, Soledad, CA.

Judges: LAWRENCE K. KARLTON, SENIOR JUDGE UNITED STATES DISTRICT COURT.

Opinion by: LAWRENCE K. KARLTON

Opinion

ORDER

On May 14, 2007, the special master filed a supplemental report and recommendations on defendants' plan to prevent suicides in administrative segregation. The report contains a series of recommendations for court orders requiring action by defendants. On May 29, 2007, defendants filed a response and objections to the special master's report and recommendations.

In the report, the special master finds that "the reliance on inmate day labor may be a major obstacle to more rapid completion" of small management yards which are necessary for outdoor exercise for inmates in administrative segregation. (Report, filed May 14, 2007, at 3.) Defendants request that this finding be amended to indicate that, for several reasons, the use of inmate day labor may expedite completion of the yards. (Defendants' Response to Special Master's Report, filed May 29, 2006, at [*5] 2.) At this stage of the proceedings, the court is not prepared to make any specific findings concerning the use of inmate labor for these projects, including whether the use of such labor would help or hurt the timely completion of the small management yards. Defendants' request for an amended finding will be denied without prejudice. Defendants may present additional information and evidence to the special master concerning the use of inmate labor in the construction of small management yards and the special master may, as appropriate, tender additional findings to the court concerning the use of such labor in one of his subsequent semi-annual monitoring reports.

The special master's first recommendation is as follows:

Within 90 days defendants should be required to submit a plan that will satisfy their need for

sufficient small management yards to meet Title 15 exercise requirements for inmates in administrative segregation. This plan should call for the funding and completion of construction of the remaining yards by the end of fiscal year 2008/2009. The plan should also include provisions for better utilization of the existing small management yards and coordination with [*6] available staff to maximize yard usage.(Report, at 10.) Defendants object to that part of this recommendation that would require them to complete construction of all required small management yards for administrative segregation use by the end of fiscal year 2008/2009. Defendants contend that the "organizational resources" required to meet this task "are also being called upon to meet the constitutional needs of inmates for proper medical, mental health, and dental treatment spaces and to meet the statutory mandates of AB 900" and that the "organizational resources must now be evaluated in light of those multiple and often competing demands before any further commitments can be made." (Defendants' Response, at 3.)

At present, defendants have only 719 of the 1,480 small management yards required to give necessary out of cell exercise time to inmates in administrative segregation. (Report, at 3.) Eighty-six additional yards are under construction, and defendants are presently seeking legislative authority to fund 179 additional yards in fiscal year 2007/08. (Defendants' Response, at 3.) If that funding were approved, defendants then planned to seek funding for an additional [*7] 179 yards for fiscal year 2008/09. (*Id.*) They do not plan to complete building all the necessary yards until 2012. (Report, at 3.) As the special master found, 2012 is "simply too late." Defendants' objection will be overruled.

The only other recommendation to which the defendants interpose an objection is the recommendation that they perform within sixty days an assessment of the space needs for providing confidential mental health interviews. Defendants seek ninety days to complete this assessment. The special master reports that defendants have not conducted the assessments promised in their October 2006 plan for determining the resources needed to provide sufficient space for confidential mental health interviews. (Report, at 8.) Beyond making the request for more time, defendants tender no reason why the assessment cannot be completed on the schedule recommended by the special master. Defendants' objection will be overruled.

In accordance with the above, IT IS HEREBY ORDERED that:

1. Defendants' request to amend the factual finding of the special master concerning the use of inmate day labor in the construction of small management yards is denied without prejudice.
2. [*8] Defendants' objections to the special master's May 14, 2007 report are overruled.
3. The special master's May 14, 2007 report and the recommendations contained therein are adopted in full.
4. Within ninety days from the date of this order defendants shall submit a plan that will satisfy their need for sufficient small management yards to meet Title 15 exercise requirements for inmates in administrative segregation. This plan shall call for the funding and completion of the remaining yards by the end of fiscal year 2008/2009. The plan shall also include provisions for better utilization of the existing small management yards and coordination with available staff to maximize yard usage.
5. Within sixty days from the date of this order, defendants shall accomplish the following:
 - a. develop a plan to require each institution to train staff on accurate logging of 30-minute welfare checks and to track and self-monitor compliance with the performance of these checks;
 - b. provide budgetary figures for the construction of the physical features of the non-stand alone intake cells;
 - c. submit a report on each institution's capability to provide televisions and/or radios to [*9] inmates in administrative segregation;
 - d. submit a status report on the implementation of the suicide history tracking
6. Defendants shall include the following in the report on enhanced outpatient programs in administrative segregation required by this court's March 9, 2007 order:
 - a. their plan for modification of the present requirement that allows ICC reviews for inmates in administrative segregation. Defendants should consider conducting ICC reviews every 45 days for those inmates awaiting disposition of referrals to local district attorneys and possibly for all mental health caseload inmates who have been held in administrative segregation over 90 days. Defendants should also consider transferring inmates in administrative segregation to more appropriate placements pending processing of their DA referrals; [*10] and
 - b. a breakdown of the numbers of administrative segregation inmates currently awaiting transfer to the sensitive needs yards. DATED: May 31, 2007.

LAWRENCE K. KARLTON

SENIOR JUDGE

UNITED STATES DISTRICT COURT