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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JOHN ARMSTRONG, et al.,

Plaintiffs,

v.

ARNOLD SCHWARZENEGGER, et al.,

Defendants.

No. C 94-02307 CW

ENFORCEMENT ORDER

On October 13, 2009, this matter came on for hearing in Courtroom 2, Fourth Floor, of this Court. Having considered the parties' pleadings and the arguments of counsel, and good cause existing therefor,

THE COURT HEREBY FINDS AND ORDERS:

Defendants Arnold Schwarzenegger, Governor; Bernard Warner, Chief Deputy Secretary of the Division of Juvenile Justice; Matthew Cate, Secretary of the California Department of Corrections and Rehabilitation (CDCR); Sharon August, Chief Deputy Secretary of the Division of Health Care Services; Deborah Hysen, Chief Deputy Secretary of the Division of Facility Planning, Construction, and

1 Management; Susan Hubbard, Director of the Division of Adult
2 Institutions; and Robert Ambroselli, Director of the Division of
3 Adult Parole Operations, are currently violating the Americans with
4 Disabilities Act (ADA), Section 504 of the Rehabilitation Act
5 (Section 504), the Permanent Injunction in this case, and their own
6 policies and procedures designed to bring them into compliance with
7 the ADA and Section 504 as embodied in the Armstrong Remedial Plan.

8 Plaintiffs have demonstrated that Defendants have violated the
9 rights of prisoners with disabilities under the ADA and Section 504
10 by: 1) failing to provide appropriate wheelchair accessible beds
11 for wheelchair users who require medium security, EOP and/or
12 protective custody; and 2) denying sign language interpreters to
13 prisoners who need them in educational and substance abuse
14 programs.¹

15 In order to remedy these violations, Defendants must develop a
16 Plan that includes funding, staffing, training, resources and an
17 implementation schedule. The Plan should be developed after
18 consultation with Plaintiffs' counsel, and should be filed with the
19 Court no later than sixty days from the date of this Order.

20 Plaintiffs may file objections to the Plan, if any, within twenty
21 days and Defendants shall have ten days to respond. Given that
22 there has already been a substantial delay in remedying these
23 violations, Defendants' Plan must provide for rapid implementation
24 and funding. All resources required by the Plan must be funded as
25 soon as possible and no implementation date in the Plan can be

26
27 ¹ Defendants object to some of Plaintiffs' evidence, but they
28 do not object to the documents they produced, including the DPW
Waitlist and Error Report. The Court did not rely on any
inadmissible evidence.

1 later than August 14, 2010.

2 Defendants' Plan must address the following:

3 I. Housing

4 A. Identification of cells and/or bed locations which could
5 be converted to appropriate wheelchair-accessible housing
6 to remedy the current shortage of wheelchair-accessible
7 housing.

8 B. Implementation plan for the conversion of cells and/or
9 bed locations identified under section I.A above. Such
10 plan must at least include but need not be limited to the
11 following information:

12 1. Identification of the extent of the current shortage
13 of wheelchair-accessible beds for specific custody
14 and classification factors.

15 2. Identification of all possible cells and/or bed
16 locations suitable for conversion to meet the
17 shortage of wheelchair-accessible housing in certain
18 custody and classification factors as identified
19 above.

20 3. Identification of any need to construct new cells
21 and/or bed locations if the need for
22 wheelchair-accessible cells or bed locations exceeds
23 the number of cells or bed locations available for
24 conversion.

25 4. Identification of cells and/or bed locations that
26 will be used for conversion.

27 5. Method and timetable for obtaining funds for all
28 conversion efforts.

- 1 6. Identification of all CDCR staff members responsible
- 2 for the conversion efforts.
- 3 7. Exact timelines, including specific dates by which
- 4 all identified cells and/or bed locations are to be
- 5 converted.
- 6 8. A plan to provide monthly reports to Plaintiffs
- 7 regarding 1) placement of any wheelchair-using
- 8 prisoners in inaccessible beds and 2) placement of
- 9 any wheelchair-using prisoners in inappropriate
- 10 accessible beds inconsistent with their custody and
- 11 classification factors.

12 II. Sign Language Interpreters

- 13 A. A plan to provide sufficient certified sign language
- 14 interpreters at, or remove deaf inmates from, prisons
- 15 that do not have interpreters in education and substance
- 16 abuse programs.
- 17 B. Alternatively, a plan for providing sign language
- 18 interpretation through the Receiver's videoconferencing
- 19 capacity including explanation of how any problems or
- 20 delays in implementing such plan will be resolved.
- 21 C. Method and timetable for obtaining funds for all hiring
- 22 or acquisition of equipment and training required to
- 23 implement options II.A or II.B listed above.

24 III. Other Relief

25 CDCR staff shall comply with the policies and procedures
26 contained in their Armstrong Remedial Plan relevant to the
27 issues outlined above, specifically Sections I, II.C-D, II.E,
28 II.F, II.I, IV.C-.D, IV.G, IV.I.14, 16, 17 of the Remedial

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Plan.

The Court finds that the relief ordered herein is narrowly drawn, extends no further than necessary to correct the violation of federal rights, and is the least intrusive means necessary to correct the violation of the federal rights.

IT IS SO ORDERED.

Dated: October 20, 2009



CLAUDIA WILKEN
United States District Judge

United States District Court
For the Northern District of California