

1 XAVIER BECERRA
 Attorney General of the State of California
 2 MONICA N. ANDERSON
 Senior Assistant Attorney General
 3 DAMON C. MCCLAIN
 ADRIANO HRVATIN
 4 Supervising Deputy Attorneys General
 NASSTARAN RUHPARWAR - 263293
 5 ELISE OWENS THORN - 145931
 TYLER V. HEATH - 271478
 6 KYLE A. LEWIS - 201041
 LUCAS HENNES - 278361
 7 Deputy Attorneys General
 455 Golden Gate Avenue, Suite 11000
 8 San Francisco, CA 94102-7004
 Telephone: (415) 703-5500
 9 Facsimile: (415) 703-5843
 Email: Nasstaran.Ruhparwar@doj.ca.gov
 10 *Attorneys for Defendants*

HANSON BRIDGETT LLP
 PAUL B. MELLO - 179755
 SAMANTHA D. WOLFF - 240280
 KAYLEN KADOTANI - 294114
 425 Market Street, 26th Floor
 San Francisco, California 94105
 Telephone: (415) 777-3200
 Facsimile: (415) 541-9366
 pmello@hansonbridgett.com

11 IN THE UNITED STATES DISTRICT COURTS
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA
 13 AND THE NORTHERN DISTRICT OF CALIFORNIA
 14 UNITED STATES DISTRICT COURT COMPOSED OF THREE JUDGES
 15 PURSUANT TO SECTION 2284, TITLE 28 UNITED STATES CODE
 16

17 **RALPH COLEMAN, et al.,**
 18 Plaintiffs,
 19 v.
 20 **GAVIN NEWSOM, et al.,**
 21 Defendants.
 22

2:90-cv-00520 KJM-DB

THREE-JUDGE COURT

23 **MARCIANO PLATA, et al.,**
 24 Plaintiffs,
 25 v.
 26 **GAVIN NEWSOM, et al.,**
 27 Defendants.
 28

C01-1351 JST

THREE-JUDGE COURT

**RALPH DIAZ DECLARATON
 SUPPORTING DEFENDANTS'
 OPPOSITION TO PLAINTIFFS'
 EMERGENCY MOTION TO MODIFY
 POPULATION REDUCTION ORDER**

1 I, Ralph Diaz, declare:

2 1. I am the Secretary of the California Department of Corrections and Rehabilitation
3 (CDCR), and my goal every day is to keep inmates under my charge and the correctional staff
4 that work in our 35 institutions safe. CDCR is working around the clock to manage and
5 appropriately respond to the COVID-19 crisis, and to prevent the illness from spreading in our
6 institutions. Plaintiffs' motion, which I have read, seeks an order releasing an unspecified
7 number and loosely defined cohort of inmates from state custody. I understand Plaintiffs'
8 concerns regarding social distancing, and I share them. I agree that it would be prudent to
9 responsibly release some inmates in response to this crisis, balancing institutional and community
10 resources and safety, and I have taken steps to carry out a significant release of inmates.

11 2. I was appointed by Governor Gavin Newsom as CDCR's Secretary on March 27,
12 2019. Before my appointment as Secretary, I served several positions, rising through the ranks
13 over the past 30 years. I served as Undersecretary of Operations, Deputy Director of Facility
14 Operations, and Associate Director of High Security Institutions. Before that, I served as a prison
15 Warden, Correctional Counselor Supervisor, and Correctional Counselor, after starting my career
16 as a Correctional Officer in 1991. I am honored and privileged to lead over 60,000 of the nation's
17 finest correctional professionals, who provide outstanding levels of rehabilitative services to the
18 offenders in our care, including during this time of international and national crisis. I submit this
19 declaration to support Defendants' opposition to Plaintiffs' emergency motion to modify the
20 population reduction order.

21 3. Attached as Exhibit A is a timeline that outlines CDCR's responses to COVID-19
22 (through March 27, 2020), and which shows CDCR's responsive and dynamic response to the
23 pandemic. A similar timeline is also provided on CDCR's website at
24 <https://www.cdcr.ca.gov/covid19/updates/>. The timeline shows that CDCR has addressed the
25 COVID-19 crisis by adding new measures every day since March 11, 2020, and has done so in a
26 public way for all to monitor, including this Court.

27 4. On March 24, 2020, the Governor issued an executive proclamation (N-36-20)
28 providing that individuals would not be admitted to state custody for 30 days, with the

1 opportunity for CDCR to extend the policy for another 30 days if suspension continues to be
2 necessary to protect the health, safety, and welfare of inmates and staff. In a typical month,
3 CDCR accepts approximately 3,000 new inmates from county jails or other jurisdictions into
4 custody. As of March 25, 2020, 114,167 inmates were housed in the State's 35 adult institution,
5 equating to 134.2% of design capacity. With the Governor's order suspending admissions into
6 the system, this number will continue to drop through CDCR's normal rate of attrition, with
7 approximately 3,000 inmates leaving CDCR's custody every month.

8 5. To further accomplish social distancing within CDCR's facilities, on March 30, 2020,
9 I exercised my independent authority under California Government Code § 8658 to direct the
10 release of additional inmates from CDCR's custody. This group is comprised of non-violent
11 inmates, including *Plata* and *Coleman* class members, who meet the following requirements:

- 12 (i) the inmates have 60 days or less remaining on their sentences (as of March 30, 2020);
13 (ii) the inmates are not serving a current term of incarceration for a violent felony offense,
14 as defined by California Penal Code § 667.5(c);
15 (iii) the inmates are not required to register under Penal Code § 290; and
16 (iv) the inmates are not serving a current term of incarceration for a domestic-violence
17 offense.

18 These non-violent inmates will either be released on parole, released to community supervision,
19 or directly discharged.

20 6. Inmates approved for release under these actions will have appropriate release and
21 transition plans and will be served with reporting instructions and any conditions of release before
22 they are released.

23 7. Based on these actions, CDCR expects to release the following number of non-violent
24 offenders: 1,751 inmates, male and female, who are within 30 days of their release date; and
25 1,745 inmates, male and female, who are within 60 days of their release date. These releases,
26 totaling 3,496 inmates, are scheduled to begin as soon as practicable, including within the
27 upcoming days and weeks, as CDCR continues to address COVID-19.
28

