

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN, et al.,

Plaintiffs,

v.

GAVIN NEWSOM, et al.,

Defendants.

No. 2:90-cv-0520 KJM DB

ORDER

Defendants have filed a motion to continue the briefing deadline and the hearing date set in this court's July 30, 2020 order, ECF No. 6794, or in the alternative for reconsideration of that order. ECF No. 6830. Plaintiffs oppose the motion. ECF No. 6835. As requested, the court has considered defendants' motion on an expedited basis. For the reasons explained below, the motion is denied. The court, however, will extend by fourteen days the briefing deadline and the hearing date set in the July 30, 2020 order, to September 14, 2020 by 5:00 p.m. and September 24, 2020 at 9:00 a.m., respectively. In addition, the third quarterly status conference will be set for September 24, 2020 immediately following the 9:00 a.m. hearing.

I. BACKGROUND

The relevant history leading to the July 30, 2020 order is set out in numerous orders of this court, including but not limited to the July 30, 2020 order, ECF No. 6794, and the

October 10, 2017 order setting a deadline for defendants to comply with their 2009 Staffing Plan and the court-ordered maximum ten percent mental health staffing vacancy rate, ECF No. 5711. That history is incorporated by reference in this order.

II. REQUIREMENTS OF THE JULY 30, 2020 ORDER

In the July 30, 2020 order, the court reset the long-delayed hearing to enforce its October 10, 2017 order. ECF No. 6794 at 7-8. The court also required the parties to address the following in briefs due two weeks before hearing:

a. With specificity, the size of the reduction in the population of seriously mentally ill inmates in California's prison system at each level of care that would be required for defendants to come into compliance with the ratios in the 2009 Staffing Plan.

b. Whether defendants can, within thirty days of any court order directing them to do so or sooner if the task is promptly undertaken, develop a plan in consultation with the Special Master and, as necessary, plaintiffs' counsel that they will implement voluntarily and that will, not later than the end of one year, permanently reduce the number of seriously mentally ill inmates to the number that will bring defendants into compliance with the requirements of the October 10, 2017 order.

c. If the answer to question 1.b. is yes, a description of the general contours of such a plan.

d. As an alternative to a voluntary plan from defendants, what remedies are available to the court to enforce its October 10, 2017 order with respect to defendants' 2009 Staffing Plan.

e. What remedies are available for the shortfall in staffing required for the psychiatric inpatient programs operated by the California Department of Corrections and Rehabilitation.

Id. at 8.

III. DEFENDANTS' MOTION

A. Defendants' Motion

Defendants seek an order continuing the dates set in the July 30, 2020 order and directing the parties instead to provide briefing in January 2021 addressing the scheduling of new dates. Defendants make several general arguments in support of their motion: (1) they need time to prepare a "proper defense" to the issues raised by the July 30, 2020 order, including but not limited to hiring and consulting with "subject matter experts in the area of correctional mental

1 health services and staffing,” ECF No. 6830 at 7; (2) the court should reconsider the July 30,
2 2020 order because the size of the mental health population has decreased, calling into question
3 whether defendants’ mental health staffing levels are in fact “insufficient to meet constitutional
4 obligations,” *id.* at 11; (3) defendants are preparing a new staffing plan as well as finalizing a
5 staffing plan for the psychiatric inpatient programs (PIP), the latter of which at least requires
6 input from the Special Master and his data expert before defendants can complete the plan, *id.* at
7 11-12; and (4) neither the court nor the Special Master have clarified the constitutional
8 benchmarks defendants must meet, *id.* at 13-14.

9 B. Plaintiffs’ Opposition

10 Plaintiffs contend defendants’ motion is a thinly veiled attempt to relitigate settled
11 questions and further delay enforcement of the staffing remedy. ECF No. 6835 at 2-4. Plaintiffs
12 also contend defendants are not currently faced with defending against a potential order to reduce
13 the population of seriously mentally ill state prisoners and are, instead, required to inform the
14 court whether they are voluntarily considering measures to reduce that population. *Id.* at 4-5.
15 They argue neither the current population reductions nor defendants’ ongoing work on a new
16 staffing plan are “new facts” that would support the motion: the population reduction measures
17 were announced six weeks before the July 30, 2020 order, are not focused on the *Coleman* class
18 and, in any event defendants have relevant class size data readily available; and defendants have
19 been “working on a new staffing plan” since at least 2014 and have had ample time to develop
20 such a plan. *Id.* at 5. Finally, plaintiffs contend the staffing requirements are “crystal clear” and
21 that defendants’ contention regarding lack of clear benchmarks is unavailing. *Id.* at 6.

22 IV. ANALYSIS

23 The court made several key findings in its October 10, 2017 order, which it
24 reiterated in the July 30, 2020 order, that guide the court’s disposition of defendants’ instant
25 motion:

26 The October 10, 2017 order explains the need for enforcement of
27 defendants’ Staffing Plan and the June 13, 2002 order requiring a
28 maximum ten percent vacancy rate in mental health staffing. *See*
ECF No. 5711, *passim*. The court found the 2009 Staffing Plan was
developed by defendants to meet their constitutional obligations to

1 the plaintiff class and the staffing ratios in that plan are properly
2 viewed as the minima necessary to meet those constitutional
3 obligations. *Id.* at 16-17. The court discussed defendants' heavy
4 burden particularly where, as here, defendants have not come
forward with any evidence that would justify further increases in
those ratios, i.e., in the number of inmates per mental health staff
person. *Id.* at 16-20.

5 ECF No. 6794 at 3-4. As plaintiffs correctly observe, answering the first question raised by the
6 July 30, 2020 order requires "just arithmetic—applying the 2009 Staffing Plan ratios to determine
7 how many patients the existing workforce can serve." ECF No. 6835 at 4. Defendants' assertion,
8 that the population reductions to date are significant enough to "call into question the Court's
9 underlying assumption in the October 2017 order that CDCR's current mental health staffing
10 levels are insufficient to meet constitutional obligations," may be either proved or refuted by
11 applying the results of the calculation plaintiffs describe to the existing population of seriously
12 mentally ill inmates.

13 If application of the 2009 Staffing Plan ratios to the existing population of
14 seriously mentally ill inmates shows that the existing workforce can serve that population, the
15 issue posed by the court's second question then becomes the durability of those population
16 reductions, i.e., forecasting whether the population of seriously mentally ill inmates will continue
17 to decline, will stabilize or will rise again if and when the current population measures defendants
18 have implemented in light of the COVID-19 pandemic are lifted.

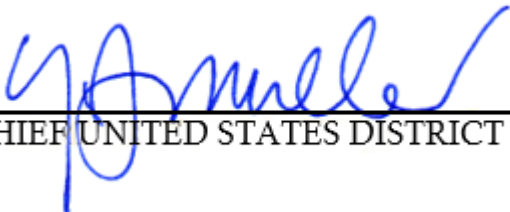
19 If on the other hand application of the 2009 Staffing Plan ratios to the existing
20 population of seriously mentally ill inmates shows the existing workforce is insufficient to serve
21 that population, the court's second question requires defendants to focus on whether they will
22 voluntarily undertake reducing the population of seriously mentally ill inmates to the size that can
23 be served by the existing workforce.

24 All of the foregoing information can be gathered and analyzed within the original
25 time frame set by the July 30, 2020 order, which the court modifies only slightly in light of the
26 pending motion and plaintiffs' response. To the extent defendants implicitly seek reconsideration
27 of the court's prior rulings, *see, e.g., Coleman v. Newsom*, 424 F. Supp. 3d 925, 927-28 (E.D. Cal.
28 2019), the court declines to revisit those rulings or countenance a delay for that purpose.

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

1. Defendants' August 21, 2020 motion, ECF No. 6830, is DENIED.
2. The date for filing briefs required by the court's July 30, 2020 order, ECF No. 6794, is CONTINUED to September 14, 2020 at 5:00 p.m.
3. The videoconference hearing set for September 10, 2020 is CONTINUED to September 24, 2020 at 9:00 a.m.
4. The third quarterly status conference is set for September 24, 2020 immediately following the hearing continued by this order.

DATED: August 25, 2020.


CHIEF UNITED STATES DISTRICT JUDGE