

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Civil Division

Central District, Stanley Mosk Courthouse, Department 86

20STCP01993

July 1, 2020

**ALLIANCE FOR CONSTITUTIONAL SEX OFFENSE LAWS,
INC., A CALIFORNIA NON-PROFIT CORPORATION, et al.
vs RALPH DIAZ, IN HIS OFFICIAL CAPACITY AS
SECRETARY OF THE CALIFORNIA DEPARTMENT OF
CORRECTIONS AND REHABILITATION**

3:31 PM

Judge: Honorable Mitchell L. Beckloff
Judicial Assistant: F. Becerra
Courtroom Assistant: None

CSR: None
ERM: None
Deputy Sheriff: None

APPEARANCES:

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

NATURE OF PROCEEDINGS: Ruling on Submitted Matter- Petitioner's Ex Parte Application for Temporary Restraining Order

The Court, having previously taken the matter under submission on 06/30/2020 , now rules as follows:

The court heard argument on Petitioners' ex parte application seeking a temporary restraining order and an order to show cause re preliminary injunction on June 30. Through the application, Petitioners seek an order prohibiting Respondent, Ralph Diaz, in his official capacity as Secretary of the California Department of Corrections and Rehabilitation (CDCR) from excluding for consideration from the revised Community Supervision Program (CSP) offenders who are required to register as a sex offender under Penal Code section 290 (Registrants). The CSP allows nonviolent, non-serious, non-domestic violence offenders who have 180 days or less to serve to be released from custody because of COVID-19 (Non-Registrants). The revised CSP begins on July 1, 2020. Petitioners established urgency to bring this application based on COVID-19 in the prison system and its threat to incarcerated individuals and institutional staff. Petitioners rely on Code of Civil Procedure section 1085 and notions of equal protection to support their position.

After hearing argument, the court took the matter under submission to further consider the arguments of the parties and to review *People v. Schoop* (2012) 212 Cal.App.4th 457.

The equal protection analysis is relevant to both of Petitioners' claims in their writ petition before the court. Petitioners assert the purpose of the CSP is to save lives by reducing the spread of COVID-19. Accordingly, Petitioners contend there can be no argument Registrants and Non-

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Registrants are not similarly situated. Petitioners argue, “Registrants and Non-Registrants incarcerated in California prisons are equally likely to contract the coronavirus, are equally likely to be infected by COVID-19, are equally likely to transmit COVID-19, and are equally likely to die from COVID-19.” (Moving Memo 6:20-22.) Petitioners contend an obligation to register under Penal Code section 290 “has no bearing on a person’s susceptibility to COVID-19.” (Id. at 6:25-26.) According to Petitioners, registration also has no bearing on disease mitigation.

Respondent argues Petitioners define the classes of individuals too broadly. The court agrees. Under Petitioners’ classification ALL inmates who have 180 days or less to serve are similarly situated. That is, criminal history “has no bearing on a person’s susceptibility to COVID-19.” (Ibid.) All inmates “are equally likely to contract the coronavirus, are equally likely to be infected by COVID-19, are equally likely to transmit COVID-19, and are equally likely to die from COVID-19.” (Id. at 6:20-22.)

The CDCR has not drawn such a classification system. Instead, it has drawn classifications based on criminal histories. The purpose of the CSP, as argued by Respondent, is to reduce prison population to make prisons safer for inmates and staff in a manner where public safety is not compromised. The inmate reduction is based on criminal histories. Those being released through the CSP (Non-Registrants) are not similarly situated with those not being released (Registrants as well as violent and certain other offenders). Their criminal histories are different and impose different requirements upon them.

Finally, while Petitioners have demonstrated some harm, the court notes CDCR is actively working on an ongoing basis to reduce inmate populations to help mitigate and manage the spread of COVID-19 among inmates and staff.

Petitioners’ request for ex parte relief is denied.

Certificate of Mailing is attached.