

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RALPH COLEMAN,

Plaintiff, No. CIV S-90-0520 LKK JFM P

vs.

ARNOLD SCHWARZENEGGER,
et al.,

Defendants. ORDER

By order filed May 25, 2006, the Special Master was ordered to report to the court on the status and sufficiency of defendants' budget requests for staffing augmentation necessary to implement the provisions of the Revised Program Guide approved by the court order filed March 3, 2006. On June 21, 2006, the Special Master filed his report.¹ By order filed the same day, the court directed the parties to file within fifteen days memoranda in support of or opposition to the recommendation contained in the Special Master's report. The parties have now filed the required briefing.²

¹ The report was filed under seal pursuant to court order following defendants' assertion of the deliberative process privilege for certain documents. This court rejected the assertion of privilege, and it has now been withdrawn by defendants.

² The parties stipulated to a short extension of time and by order filed July 5, 2006, the time for filing briefs was extended to July 11, 2006.

1 After review of the Special Master's report and the briefing of the parties filed in
2 connection therewith, and after further discussion with the Special Master, it is apparent to this
3 court that defendants have failed to provide the Special Master with critical documents relevant
4 to an assessment of the adequacy of their staffing augmentation requests. In particular,
5 defendants did not provide the Special Master with a copy of the Budget Change Proposal on
6 Staffing for FY 2005-06 that they actually submitted to the Department of Finance. In addition,
7 evidence submitted by defendants with their memorandum in opposition to the Special Master's
8 report refers to "analytical working papers created by the [Department of Finance] for any of the
9 budget proposals referenced in the Special Master's report." (Declaration of Todd Jerue, filed
10 July 11, 2006, at p. 3.)

11 In order to analyze whether defendants have requested sufficient staff to implement the
12 court-approved provisions of the Revised Program Guide, the Special Master must have all
13 information relevant to the requests actually made by defendants and the disposition of those
14 requests in connection with submission of the budget to the Legislature. It is apparent that has
15 not happened.

16 Accordingly, IT IS HEREBY ORDERED that within two (2) days from the date
17 of this order, defendants shall provide to the Special Master all documents relevant to the
18 requests of the California Department of Corrections and Rehabilitation for staffing to
19 implement the court-approved provisions of the Revised Program Guides, including but not
20 limited to the documents specifically described in this order. The Special Master shall file a
21 supplemental report to the court not later than five (5) days after receipt of the documents.
22 Thereafter, the court will make further orders as appropriate.

23 ////

24 ////

25 ////

26 ////

The court will not entertain objections to the supplemental report, nor will the court accept from defendants any evidence not provided to the Special Master in connection with preparation thereof. *21*

DATED: July 17, 2006.

Lawrence R. Kaufer

Lawrence K. Karlton
Senior Judge
U.S. District Court