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 15

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 17 COUNTY OF MARIN
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19 AMERICAN CIVIL LIBERTIES UNION OF
 NORTHERN CALIFORNIA,

20 Petitioner,

21 vs.

22 CALIFORNIA DEPARTMENT OF
 23 CORRECTIONS AND REHABILITATION,

24 Respondent.

Case No. CV 1504195

STIPULATED ORDER

Judge: Hon. Paul M. Haakenson

Dept.: E

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STIPULATED ORDER

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2 Whereas, on March 21, 2016, the Court issued an order ("March 21 Order") granting in
3 part Petitioner American Civil Liberties Union of Northern California's ("ACLU-NC's") Verified
4 Writ Petition; attaching a document-by-document log identifying, among other things, the
5 withheld records as to which the Court denied Respondent California Department of Corrections
6 and Rehabilitation's ("CDCR's") claimed exemption in full or in part; and ordering CDCR "to
7 release to Petitioner all documents wherein the claimed exemption is 'denied,' by the end of
8 business, March 24, 2016";

9 Whereas, on March 23, 2016, CDCR filed a writ petition with the First District Court of
10 Appeal seeking review of the March 21 Order and a stay of the March 21 Order;

11 Whereas, on March 23, 2016, the Court of Appeal entered an immediate, temporary stay of
12 the trial court proceedings;

13 Whereas, on March 25, 2016, the Court of Appeal entered a modified stay order that stayed
14 the March 21 Order provided CDCR extended the public comment period on its proposed lethal
15 injection regulations to May 15, 2016;

16 Whereas, on April 22, 2016, the Court of Appeal denied CDCR's writ petition;

17 Whereas, on April 26, 2016, the Court of Appeal issued an order vacating its stay of the
18 March 21 Order;

19 Whereas, on April 25, 2016, CDCR applied ex parte to the Court, seeking certain
20 modifications of the March 21 Order with respect to 34 documents and to establish April 29, 2016
21 as the date by which CDCR had to comply with the Court's March 21 Order;

22 Whereas, on April 26, 2016, the Court entered an Order Granting in Part and Denying in
23 Part Respondent's Ex Parte Application, which order granted CDCR's ex parte request to the
24 extent the Court detected clerical errors in its rulings as to eight documents, but otherwise denied
25 CDCR's ex parte application in all respects ("April 26 Order");

26 Whereas, on April 26, 2016, CDCR petitioned for review ("April 26 Petition for Review")
27 of the March 21 Order with the Supreme Court and sought a stay of the March 21 Order from the
28 Supreme Court;

1 Whereas, on April 27, 2016, ACLU-NC applied ex parte for, and the Court issued, an
2 Order to Show Cause re Contempt;

3 Whereas, on April 28, 2016, the Supreme Court denied CDCR's request for a stay;

4 Whereas, on April 28, 2016, the Supreme Court set a briefing schedule on CDCR's
5 Petition for Review requiring an Answering Brief from ACLU-NC by Friday, April 29, 2016 and
6 a Reply from CDCR by May 3, 2016, and also set a deadline of June 27, 2016 for any ruling by
7 the Supreme Court on the April 26 Petition for Review;

8 Whereas, on April 28, 2016, the Court held a hearing on its Order to Show Cause re
9 Contempt, during which hearing the parties met and conferred, and agreed to the following
10 mutually agreeable stipulation;

11 NOW, THEREFORE, THE PARTIES HEREBY STIPULATE AND AGREE TO ENTRY
12 OF THE FOLLOWING ORDER:

13 1. The Court hereby stays its March 21 Order (as modified by the April 26 Order).
14 This stay shall remain in place until the Supreme Court's ruling on the April 26 Petition for
15 Review.

16 2. CDCR has agreed to extend, and will extend as soon as possible, the deadline for
17 public comment on its proposed lethal injection regulations ("Public Comment Period Deadline")
18 to July 11, 2016.

19 3. If CDCR's April 26 Petition for Review is denied, or is deemed denied by
20 operation of law, the stay of the March 21 Order (as modified by the April 26 Order) referenced in
21 Paragraph 1 shall end immediately, and CDCR shall make good faith efforts to produce within
22 two (2) hours of such denial all documents or portions thereof it was ordered to produce under the
23 March 21 Order (as modified by April 26 Order).

24 4. If the Supreme Court extends its June 27, 2016 deadline to rule on CDCR's Petition
25 for Review by a certain period of time, CDCR shall extend the Public Comment Period Deadline
26 beyond July 11, 2016 by an equivalent period of time, and the Court's stay shall also be extended
27 for an equivalent period, subject to the limitations in paragraphs 1 and 3.

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1 5. After the April 26 Petition for Review is ruled upon, CDCR will not seek rehearing
2 or further review of that petition.

3 6. CDCR will not in any other manner aside from the pending April 26 Petition for
4 Review seek any review or modification by any court of the Court's March 21 Order (as modified
5 by the April 26 Order).

6
7 Respectfully Submitted,


8 DATED: May 5, 2016

MUNGER, TOLLES & OLSON LLP

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10 By: 
11 ACHYUT J. PHADKE

12 Attorneys for Petitioner American Civil Liberties Union
13 of Northern California

14 DATED: May 5, 2016

15
16 By: 
17 RYAN MARCROFT
18 Deputy Attorney General

19 Attorneys for Respondent California Department of
20 Corrections and Rehabilitation

21 IT IS SO ORDERED

22
23 Dated: _____

24 Paul M. Haakenson
25 Judge of the Superior Court

DECLARATION OF SERVICE BY FACSIMILECase Name: **ACLU of Northern California v. CDCR**No.: **CV1504195**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. My facsimile machine telephone number is (916) 324-8835.

On May 5, 2016 at approximately 11:04 AM., I served the attached **STIPULATED ORDER** by transmitting a true copy by facsimile machine, pursuant to California Rules of Court, rule 2.306. The facsimile machine I used complied with Rule 2.306, and no error was reported by the machine. Pursuant to rule 2.306(h)(4), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration.

Achyut J. Phadke
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560 Mission Street
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Fax #: (415) 512-4077

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on May 5, 2016, at Sacramento, California.

Tracie L. Campbell
Declarant



Signature

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PROOF OF SERVICE

American Civil Liberties Union – NC v. California Dept. of Corrections and Rehabilitation
Marin County Superior Court Case No. CV 1504195

I am a citizen of the United States and employed in City and County of San Francisco, California. I am over the age of 18 years and not a party to the within-entitled action. My business address is 560 Mission Street, 27th Floor, San Francisco, CA 94105.

On May 5, 2016, I served a true and correct copy of the document(s) described as:

STIPULATED ORDER

on the interested parties in this action on the attached Service List by placing true copies thereof enclosed in a sealed envelope addressed as follows:

- BY E-MAIL OR ELECTRONIC TRANSMISSION:** I caused a copy of the document(s) to be sent from e-mail address robyn.bird@mto.com to the persons at the e-mail addresses listed in the Service List.
- BY U.S. MAIL:** I caused such envelope(s) to be placed for mailing with the United States Postal Service; in the ordinary course of business, correspondence placed in interoffice mail is deposited with the United States Postal Service with first class postage thereon fully prepaid on the same day it is placed for collection and mailing, as indicated on attached Service List.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed at San Francisco, California on May 5, 2016.



Robyn E. Bird

SERVICE LIST

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