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Overcrowding at Center of Landmark Prison Rights Case

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We all know the important role that the federal courts played during the civil rights movement. Fewer people recognize that the federal courts are playing a similar and equally important role today concerning the administration of state prisons.

On Tuesday November 30, the United States Supreme Court will hear oral arguments in *Schwarzenegger v. Plata*, a landmark prison rights case. The State of California has appealed a federal court order that the State of California reduce the extreme crowding in its 33 state prisons.

The State is currently operating its prisons at about 200% of design capacity, a level that Governor Schwarzenegger declared in 2006 to constitute a "state of emergency." The federal court ordered the State to produce a plan to reduce crowding to 137.5% of design capacity within a two year period. The plan the State produced employs a variety of strategies and is actually very similar to Governor Schwarzenegger's 2009 plan to reduce the prison budget by reducing the number of prisoners.

Why, then, is the State appealing the court order? California does not want the federal courts telling it how to operate its prisons, believing that it is the State's right to have supreme authority over these institutions. We saw similar positions in the South during the civil rights movement when Southern states rejected federal authority over integration in schools, restaurants and other core social institutions.

California does not dispute that it is violating the Eighth Amendment command against cruel and unusual punishment with its inadequate prison health care. People are suffering and dying because of it. California has tried but has demonstrated that it is incapable of fixing these violations. After a long trial, the court determined that the primary reason why California cannot provide adequate prison health care is overcrowding. The State has provided no other explanation and has suggested no other way to fix these violations. If the Supreme Court rules in favor of California's position, then it will be sending a dangerous message that federal courts do not have the authority to intervene when state prisons are violating the constitution.

The federal court heard testimony from criminologists around the country about successful prisoner reduction programs. Half of the trial was devoted to public safety issues. While no program can guarantee that any particular prisoner, once released, will not commit a new offense, it has been shown that the overall crime rate is not adversely affected under early release programs. In fact, there is evidence that mass incarceration increases the crime rate. With about 70% of California parolees returning to prison within three years (many for violations which do not constitute new crimes), it can hardly be said that our current system is working!

Faced with budget deficits, many states have successfully been reducing their prison populations and even closing prisons. These states, which include New York, New Jersey, Illinois, Ohio, Michigan and Massachusetts, have not seen an increase in crime rates. Even California has reduced its juvenile prison population by over 80% and closed some facilities with little fanfare but with great success.

Elected officials have led Californians to believe, wrongly, that the federal court ordered the imminent release of 40,000 prisoners. However, in the ordinary course of business, California releases 11,000 prisoners every month (since about the same number of people enter prison each month, the overall population remains relatively constant). Politicians have been misrepresenting the court order to gain support for their budget-busting long-range prison construction plan. But California's recent prison-building boom did not reduce overcrowding. Instead, state funds were diverted away from education and other vital social services while the prison population soared.

The best way to ensure that people successfully reenter society is to provide resources to support them upon release. Prisoners who have maintained family ties and have housing and employment opportunities awaiting them will do better than those who don't. Even simple services like the immediate availability of state identification and Medi-Cal cards can ease reentry. And it is cheaper to provide these services than to incarcerate.

The federal court's order will ease crowding, save the state money, help improve prison health care, and not increase crime. Just as the South needed outside assistance to integrate schools and enforce voting rights, California needs the intervention of the federal courts to help us enforce the federal constitution behind prison walls.

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