

FILED

UNITED STATES COURT OF APPEALS

FEB 18 2021

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

ANGEL DE JESUS ZEPEDA RIVAS; et
al.,

Nos. 20-16276
20-16690

Plaintiffs-Appellees,

v.

D.C. No. 3:20-cv-02731-VC
Northern District of California,
San Francisco

DAVID JENNINGS, Acting Field Officer
Director; et al.,

ORDER

Defendants-Appellants,

and

GEO GROUP, INC.; NATHAN ALLEN,
Warden,

Defendants.

Before: BERZON, CHRISTEN, and BADE, Circuit Judges.

These appeals concern a temporary restraining order entered April 29, 2020, a preliminary injunction entered June 9, 2020, and a number of bail orders. We heard oral argument in these appeals on February 9, 2020. During and after argument, the parties notified the court that they were amenable to exploring the submission of their dispute to the Circuit Mediation Program. ECF 74, 75. Accordingly, we refer these appeals to the Circuit Mediator's Office. In order to

assist the parties and the mediator, we simultaneously issue a memorandum disposition accompanying this order that decides certain threshold issues raised in these appeals.

Because the detention facility conditions challenged in this case have changed while these appeals have been pending, any ruling we enter concerning the conditions that existed in April and June 2020 will provide limited guidance to the parties. Indeed, the district court entered two subsequent preliminary injunctions on December 3, 2020, and January 6, 2021. The defendants have already filed two appeals of the December 3 order. *See Zepeda-Rivas v. Geo Group, Inc.*, No. 21-15195; *Zepeda-Rivas v. Jennings*, No. 21-15197. Because they are related, those appeals will be consolidated and assigned to this panel. The parties are ordered to confer and, within seven days from the date of this order, provide notice to the court regarding their willingness to explore submission of the appeals arising from the December 3 preliminary injunction to mediation along with the issues argued on February 9, 2020. If so, the panel will stay the briefing orders in those appeals.