

1 **WO**

2
3
4
5
6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE DISTRICT OF ARIZONA

8
9 Jose Gutierrez,

10 Plaintiff,

11 v.

12 Seth McLaws et al.,

13 Defendants.

No. CV-13-00585-PHX-DGC

ORDER

14 The United States has moved to quash a subpoena issued to the Department of
15 Homeland Security (“DHS”) on December 10, 2013. Doc. 28. The Court will grant the
16 motion.

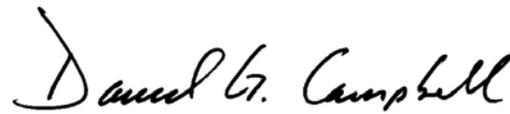
17 The United States argues that Plaintiff has “failed to follow DHS regulations
18 governing the production of documents.” Doc. 28 at 3. The Court agrees. The
19 regulations clearly state that in cases where DHS has not entered an appearance or given
20 notice of representation, “only the Office of the General Counsel is authorized to receive
21 and accept subpoenas[.]” 6 C.F.R. § 5.43. The Office of the General Counsel must
22 receive a writing setting forth “with as much specificity as possible, the nature and
23 relevance of the information sought.” *Id.* at § 5.45. Further, DHS employees are
24 prohibited from producing documents “unless authorized to do so by the Office of the
25 General Counsel[.]” *Id.* at § 5.44(b).

26 The subpoena in question was issued to “Office of the Chief Counsel, U.S.
27 Customs and Border Protection.” Doc. 30. There is no evidence that Plaintiff served the
28 subpoena on DHS’s Office of the General Counsel or provided that office a writing

1 setting forth with specificity the nature and relevance of the information sought. Because
2 Plaintiff has failed to comply with the appropriate regulations, the Court will grant the
3 motion to quash. *See United States v. Henson*, 123 F.3d 1226, 1237 (9th Cir. 1997)
4 (upholding the district court's decision to quash a subpoena where the plaintiff failed to
5 follow an agency's procedures for obtaining records).

6 **IT IS ORDERED** that the United States' motion to quash (Doc. 28) is **granted**.

7 Dated this 16th day of January, 2014.

8
9
10 

11

12 David G. Campbell
13 United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28