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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MAXIMILIAN MONCLOVA-CHAVEZ,	CASE NO. 1:08-cv-00076-AWI-SKO PC	
Plaintiff,		ORDER GRANTING DEFENDANT MILLER
v.		AND DEFENDANT WHITE’S MOTIONS FOR
		A SUBPOENA DUCES TECUM
ERIC MCEACHERN, et al.,	(Docs. 67, 69)	
Defendants.		

Plaintiff Maximilian Monclova-Chavez (“Plaintiff”) is a federal prisoner in this civil rights action pursuant to Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388, 91 S.Ct. 1999 (1971), which provides a remedy for civil rights violations committed by federal actors. Plaintiff claims the defendants in this action violated Plaintiff’s rights under the Eighth Amendment by using excessive force against Plaintiff.

On September 27, 2010, Defendant Timothy Miller and Defendant Kenneth White filed separate motions requesting a subpoena duces tecum commanding the Regional Counsel at the Western Regional Office for the Federal Bureau of Prisons to produce:

the SIS report along with the findings of the investigation, conducted by the SIA/OIG in the Maximilian Monclova investigation, along with the 583 and 586 incident reports (completed on April 7, 2007 in the Maximilian Monclova incident). This should include all pictures, videos, along with all medical reports and findings conducted by Mercy Hospital in Merced, CA.

(Request for Subpoena of Documents 1, ECF No. 67.)

1 The request is difficult to comprehend because it is unclear which investigation is at issue.
2 Accordingly, the Court will narrow the request to encompass only the reports related to the use of
3 excessive force incident described in Plaintiff's complaint. To the extent that Defendant Miller or
4 Defendant White is seeking a report related to a different incident or investigation, the defendant
5 must explain how the report is relevant to Plaintiff's claims or Defendants' defenses.

6 The issued subpoena will command the Regional Counsel to produce the requested
7 documents within thirty (30) days of the date of service of the subpoena, but will otherwise be issued
8 as a blank form. It is Defendant Miller and Defendant White's responsibility to complete the
9 subpoena to indicate where the requested documents should be produced. It is also Defendant Miller
10 and Defendant White's responsibility to serve the subpoena in accordance with Federal Rule of Civil
11 Procedure 45(b).

12 Accordingly, it is HEREBY ORDERED that:

13 1. The Clerk of the Court is directed to:

14 a. Issue a completed subpoena duces tecum commanding the Regional Counsel
15 at the Western Regional Office for the Federal Bureau of Prisons to produce
16 the "SIS report," the "findings of the investigation conducted by the
17 SIA/OIG," and the "583 and 586 incident reports" completed on April 7,
18 2007. The requested documents include all pictures and videos and all
19 medical reports and findings conducted by Mercy Hospital in Merced,
20 California. The subpoena shall command the Regional Counsel to produce
21 the requested documents within thirty (30) days of the date of service of the
22 subpoena; and

23 b. Serve a copy of this order and a copy of the issued subpoena on all parties to
24 this action; and

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2. Defendant Miller and Defendant White shall serve the subpoena duces tecum on the Regional Counsel at the Western Regional Office for the Federal Bureau of Prisons in accordance with Federal Rule of Civil Procedure 45(b).

IT IS SO ORDERED.

Dated: December 7, 2010

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE