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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 JAMISI J. CALLOWAY,

12 Plaintiff,

13 vs.

14 C/O HAYWARD and

15 C/O OAKS,

16 Defendants.
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1:08-cv-01896-LJO-GSA-PC

ORDER DENYING PLAINTIFF'S
SECOND REQUEST FOR ISSUANCE OF
WITNESS SUBPOENAS
(ECF No. 226.)

20 **I. BACKGROUND**

21 Jamisi J. Calloway ("Plaintiff") is a state prisoner proceeding pro se and in forma
22 pauperis with this civil rights action under 42 U.S.C. § 1983. Plaintiff filed the Complaint
23 commencing this action on December 10, 2008. (ECF No. 1.) This action now proceeds with
24 Plaintiff's Third Amended Complaint filed on October 5, 2009, against defendants C/O
25 Hayward and C/O Oaks, for use of excessive force in violation of the Eighth Amendment to the
26 U.S. Constitution. (ECF No. 20.)

27 This case is scheduled for jury trial to commence on January 31, 2017 at 8:30 a.m.
28 before District Judge Lawrence J. O'Neill. On January 27, 2017, Plaintiff filed a request for

1 the District Judge to direct the U.S. Marshal to serve Plaintiff's witness subpoenas for trial.
2 (ECF No. 226.) Plaintiff also requests that defense counsel stipulate to produce all state
3 employees for testimony at trial.¹

4 **II. DISCUSSION**

5 This is Plaintiff's second request for issuance of witness subpoenas for trial. The court
6 denied Plaintiff's prior request, filed on January 9, 2017, as untimely, because there was not
7 enough time before trial to serve the subpoenas, and because Plaintiff had not indicated that he
8 was able to pay the witness fees. (ECF No. 215.) The present request shall be denied for the
9 same reasons. Moreover, although Plaintiff indicates that he submitted subpoenas as Exhibit A
10 to his request, there is no Exhibit A attached to Plaintiff's request, and no subpoenas were
11 received by the court.

12 **III. CONCLUSION**

13 Accordingly, based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's
14 second request for witness subpoenas, filed on January 27, 2017, is DENIED.

15 IT IS SO ORDERED.

16 Dated: January 30, 2017

17 /s/ Lawrence J. O'Neill
18 UNITED STATES CHIEF DISTRICT JUDGE

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27 ¹ Plaintiff is advised that Defendants are not required to call all of the witnesses they listed.
28 However, as is the Court's general practice in cases such as this, witnesses the defense plans to call shall be present on January 31, 2017, by 9:30 a.m. and shall be available for Plaintiff to call for direct examination.