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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ANDREW LOPEZ,)	Case No.: 1:08-cv-01975- LJO - JLT (PC)
Plaintiff,)	
v.)	ORDER DENYING PLAINTIFF’S NOTICE OF
FLOREZ, et al.)	TARDY RECEIPT OF SUBPOENA DUE TO
Defendants.)	DEFENDANT’S MAILING PROCESS
)	(CONSTRUED BY THE COURT AS A MOTION
)	TO QUASH THE SUBPOENA) AND PETITION
)	FOR WRIT OF HABEUS CORPUS
)	AD-TESTIFICANDUM
)	
)	(Doc. 145)
)	

Before the Court is Plaintiff’s “notice of tardy receipt of subpoena due to Defendant’s mailing process.”¹ (Doc. 145). It appears in filing this notice, Plaintiff seeks to be present when the documents are produced and, therefore, seeks an order for a writ of habeas corpus ad testificandum. (Doc. 145).

Fed. R. Civ. P. 45 permits a party to command the production of documents from a third party where an undue burden or expense is not imposed. Subsection (c)(2)(A) specifically provides that a party “need not appear in person at the place of production or inspection unless commanded to appear for a deposition, hearing, or trial.” Fed. R. Civ. P. 45(c)(2)(A).

Here, Plaintiff waived any objection to the production of his medical records by initiating the present matter in which he placed his medical condition at issue. Thus, Plaintiff has no basis upon

¹ The Court has **continually admonished** Plaintiff to cease filing frivolous discovery motions.

1 which to object to the production of his medical records and shows no actual injury by the lengthy
2 processing of his mail. In any event, Plaintiff is not the producing party and has no burden in the
3 production of these documents.

4 Additionally, it is noted that the document attached to Plaintiff's motion is a Fed.R.Civ.P. 45
5 subpoena for production of documents. (Doc. 145 at 4). The subpoena indicates only that the
6 requested documents are to be produced by a certain time and date and submitted to the third-party
7 copying service.² Id. Plaintiff's presence was not required on March 28, 2013.³ Thus, the motion for a
8 writ of habeus corpus ad testificandum is DENIED.

9 **ORDER**

10 For the foregoing reasons, Plaintiff's motion is DENIED.

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12 IT IS SO ORDERED.

13 Dated: April 16, 2013

14 /s/ Jennifer L. Thurston
15 UNITED STATES MAGISTRATE JUDGE

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26 ² The Court notes that it is customary for parties to litigation to utilize third party copying services for the purposes of
27 reducing the costs of litigation and improving the efficiency of the parties' workload. Plaintiff demonstrates no prejudice in
28 the use of a third party copying service. The Court **OVERRULES** Plaintiff's objection to the use of the third party copying
service.

³ Nevertheless, the Court reminds counsel to take steps to ensure the confidentiality of information contained on the
medical documents, including Plaintiff's social security number.