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

KAREEM STANSBURY,	CASE NO. 1:09-cv-00549-SKO PC
Plaintiff,	ORDER DENYING MOTION FOR ISSUANCE
v.	OF SUBPOENA DUCES TECUM, WITHOUT
	PREJUDICE
UNITED STATES	(Doc. 54)
GOVERNMENT, et al.,	
Defendants.	

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Plaintiff Kareem Stansbury, a federal prisoner proceeding pro se and in forma pauperis, filed this civil action on March 24, 2009, 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 violation of civil rights by federal actors. This action is proceeding on Plaintiff’s second amended complaint, filed on February 28, 2011, against Defendant Lehman for excessive force in violation of the Eighth Amendment, and against Defendant Miller for retaliation in violation of the First Amendment. Plaintiff’s claims arise from events which occurred in 2008 while he was incarcerated at United States Penitentiary-Atwater (USP-Atwater) in Atwater, California.

On September 18, 2012, Plaintiff filed a motion seeking the issuance of a subpoena duces tecum directing the Inspector General’s Office to produce documents.

Plaintiff may be entitled to the issuance of a subpoena commanding the production of documents from a non-party, Fed. R. Civ. P. 45, and to service of the subpoena by the United States Marshal, 28 U.S.C. 1915(d). However, the Court will consider granting such a request *only if* the

1 documents sought from the non-party are not equally available to Plaintiff and are not obtainable  
2 from Defendants through a request for the production of documents.<sup>1</sup> Fed. R. Civ. P. 34. If Plaintiff  
3 wishes to make a request for the issuance of a records subpoena, he may file a motion requesting the  
4 issuance of a subpoena duces tecum that (1) identifies with specificity the documents sought and  
5 from whom, and (2) makes a showing in the motion that the records are only obtainable through that  
6 third party.

7 Based on the foregoing, Plaintiff's motion for the issuance of a subpoena duces tecum is  
8 HEREBY DENIED, without prejudice to renewal.

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10 IT IS SO ORDERED.

11 **Dated: September 24, 2012**

/s/ Sheila K. Oberto  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> Based on the nature of Plaintiff's request, it appears the documents are not equally available to Plaintiff and will need to be sought from Defendants.