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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

OSCAR W. JONES,

Plaintiff,

v.

STEPHEN MAYBERG, et al.,

Defendants.

CASE NO. 1:10-cv-01530-SKO PC

ORDER OPENING DISCOVERY FOR
LIMITED PURPOSE OF IDENTIFYING DOES
2 AND 3 AND REQUIRING PLAINTIFF TO
IDENTIFY DOCUMENTS WITHIN TWENTY
DAYS

(Docs. 30 and 31)

Discovery Deadline: 10/01/2013

Deadline to Identify Documents: 20 days

Plaintiff Oscar W. Jones, a former civil detainee proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on August 25, 2010. At this juncture, this action is proceeding against Defendants Doe 2 and Doe 3 for violating the Due Process Clause of the United States Constitution, relating to the failure to transport Plaintiff for medical treatment while he was at Coalinga State Hospital.

Although the use of Doe defendants is generally disfavored, the law of this Circuit requires that Plaintiff be provided with “an opportunity through discovery to identify the unknown defendants, unless it is clear that discovery would not uncover the identities. . . .” *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (quoting *Gillespie v. Civiletti*, 629 E.2d 637, 642 (9th Cir. 1980)). Therefore, on April 29, 2013, the Court ordered Plaintiff to file a status report regarding how much time he needs to conduct discovery to ascertain the identities of Does 2 and 3. Plaintiff filed a response on May 15, 2013.

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1 The Court declines to grant Plaintiff a year or more to conduct discovery, as requested.
2 Plaintiff filed this action and he is required to prosecute it with due diligence. To that end, even
3 though Plaintiff is proceeding pro se, the identification of the Doe defendants must be prioritized and
4 a year or more is an unreasonably long period of time.

5 The Court will open discovery for a period of four months. Given that Plaintiff is limited to
6 seeking discovery pursuant to Rule 45 of the Federal Rules of Civil Procedure at this juncture, he
7 is entitled to the issuance of subpoenas duces tecum under Rule 45. Plaintiff shall notify the Court
8 within twenty days which documents need to be produced by the California Department of
9 Corrections and Rehabilitation and/or Coalinga State Hospital to identify Does 2 and 3. Plaintiff
10 must be as specific as possible in terms of the document names. Upon receipt of this information,
11 the Court will direct the United States Marshal to serve the subpoenas duces tecum.

12 Accordingly, it is HEREBY ORDERED that:

- 13 1. Discovery shall be open until **October 1, 2013**, for the limited purpose of obtaining
14 documents necessary to identify Doe 2 and Doe 3; and
- 15 2. Within **twenty (20) days** from the date of service of this order, Plaintiff shall identify
16 the documents necessary to identify Doe 2 and Doe 3.

17
18 IT IS SO ORDERED.

19 **Dated: May 31, 2013**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE