

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

KEVIN DARNELL BRYANT)	Case No.: 1:11-cv-00446-LJO-BAM PC
)	
Plaintiff,)	ORDER GRANTING PLAINTIFF’S SECOND
)	MOTION FOR ISSUANCE OF SUBPOENA
v.)	DUCES TECUM AND DIRECTING SERVICE OF
)	SUBPOENA DUCES TECUM BY UNITED
P. GALLAGHER, et al.,)	STATES MARSHALS SERVICE WITHOUT
)	PREPAYMENT OF COSTS (ECF No. 103)
Defendants.)	
)	
)	

Plaintiff Kevin Darnell Bryant (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action filed pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff’s first amended complaint, filed on July 5, 2011, against Defendant Romero for deliberate indifference to serious medical needs in violation of the Eighth Amendment; and against Defendants Gallagher and Romero for conspiracy, retaliation in violation of the Eighth Amendment and failure to protect in violation of the Eighth Amendment. On October 11, 2012, Plaintiff filed a motion for a court order or subpoena duces tecum for production of his medical records. (ECF Nos. 71, 72.) On October 17, 2013, the Court granted Plaintiff’s request for the issuance of a subpoena duces tecum to Mercy Hospital in Bakersfield to produce the relevant records. (ECF No. 74.)

On January 8, 2013, Mercy Hospital responded to the subpoena and reported that they required Plaintiff’s date of birth and issuance of a new subpoena to provide the requested records. (ECF No. 97.) Thereafter, on January 14, 2013, the Court issued an order requiring Plaintiff to submit his date

1 of birth confidentially to the Court to assist Mercy Hospital in locating his records. (ECF No. 98.) In
2 response to the Court's order, on February 6, 2013, Plaintiff filed the instant motion for the issuance of
3 a second subpoena duces tecum to Mercy Hospital of Bakersfield. Plaintiff's motion identified his
4 date of birth as 3-26-65.¹ (ECF No. 103.)

5 In keeping with its prior order, the Court will issue a subpoena duces tecum to Mercy Hospital
6 in Bakersfield to produce the relevant records and order a limited extension of the discovery deadline
7 for this subpoena.

8 Plaintiff is proceeding pro se and in forma pauperis, and while he is entitled to service of the
9 subpoena by the United States Marshal, 28 U.S.C. § 1915(d), Plaintiff is advised that he will be
10 required to pay any fees associated with the production of the records.

11 Accordingly, IT IS HEREBY ORDERED that:

- 12 1. Plaintiff's second motion for a subpoena duces tecum, filed February 6, 2013, is
13 GRANTED;
- 14 2. The Clerk of the Court shall forward the following documents to the United States
15 Marshals Service for each subpoena to be served:
- 16 a. One (1) completed and issued subpoena duces tecum and attached letter to be served on
17 each of the following:
- 18 CHW CENTRAL CALIFORNIA MERCY HOSPITAL
19 2215 TRUXTUN AVENUE
20 BAKERSFIELD, CALIFORNIA 93301
- 21 b. One (1) completed USM-285 form; and
22 c. One (1) copy of this order, plus an extra copy for the Marshals Service.
- 23 3. Within TWENTY (20) DAYS from the date of this order, the Marshals Service is
24 DIRECTED to serve the subpoenas in accordance with the provisions of Rule 45 of the Federal Rules
25 of Civil Procedure.

26
27
28 ¹ Plaintiff did not submit his date of birth confidentially to the Magistrate Judge's chambers. Instead, Plaintiff filed a motion on the docket of this court, which included his date of birth.

