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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

KEVIN DARNELL BRYANT,

Plaintiff,

v.

GALLAGHER, et al.,

Defendants.

CASE NO. 1:11-cv-00446-LJO-BAM PC

ORDER DENYING PLAINTIFF’S MOTION FOR
BLANK SUBPOENAS DUCES TECUM

(ECF No. 55)

Plaintiff Kevin Darnell Bryant (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action is proceeding on the first amended complaint 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 First Amendment and failure to protect in violation of the Eighth Amendment. Discovery opened on February 22, 2012. On March 12, 2012, Plaintiff filed a motion for two blank subpoenas duces tecum to request documents from non-parties.

Subject to certain requirements set forth herein, Plaintiff may be entitled to the issuance of a subpoena commanding the production of documents from non-parties. Fed. R. Civ. P. 45. However, the Court will consider granting such a request *only if* the documents sought from the non-party are discoverable, are not equally available to Plaintiff, and are not obtainable from Defendants through a request for production of documents. Fed. R. Civ. P. 45(c); Fed. R. Civ. P. 34.

Plaintiff is entitled to seek discovery of any nonprivileged matter that is relevant to his claims. Fed. R. Civ. P. 26(b)(1). The discovery sought may include information that is not

1 admissible as long as it appears reasonably calculated to lead to the discovery of admissible
2 evidence. Id. In order to obtain a subpoena duces tecum, Plaintiff must inform the court of the
3 purpose of the subpoena. A request for the issuance of a records subpoena requires Plaintiff to: (1)
4 identify with specificity the documents sought and from whom, and (2) make a showing that the
5 records are only obtainable through that third party.

6 Accordingly, Plaintiff's motion for subpoenas duces tecum, filed March 12, 2012, is
7 HEREBY DENIED.

8 IT IS SO ORDERED.

9 Dated: March 14, 2012

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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