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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DAVID RAYMOND ANDREWS,)	1:11cv01659 AWI DLB
)	
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S REQUESTS
)	FOR ISSUANCE OF SUBPOENAS
v.)	(Documents 18, 19, 20, 21)
)	
FEDERAL BUREAU OF)	
INVESTIGATION,)	
)	
)	
Defendant.)	

Plaintiff David Raymond Andrews (“Plaintiff”), a state prisoner proceeding pro se and in forma pauperis, filed this Freedom of Information Act (“FOIA”) action on September 27, 2011.

On March 8, 2012, Plaintiff filed four separate requests for issuance of subpoenas pursuant to Federal Rules of Civil Procedure 45, which seek non-party production of documents from the Fresno Police Department (Docs. 18 and 19), the United States Department of Treasury, Internal Revenue Service (Doc. 20) and the Fresno County District Attorney (Doc. 21).

In a FOIA action, such as this one, discovery is usually not available. *See MacLean v. U.S. Dept. of Defense*, 2005 WL 628021 (S.D. Cal. Mar. 16, 2005); *Wheeler v. C.I.A.*, 271 F.Supp.2d 132, 139 (D.D.C. 2003) (“Discovery is generally unavailable in FOIA actions.”). Generally, discovery is limited because the underlying case concerns the propriety of revealing certain documents. *Wiener v. FBI*, 943 F.2d 972, 977 (9th Cir. 1991). In certain cases, courts have allowed discovery only after the government has moved for summary judgment. *See, e.g.*,

1 *Lane v. Dep't of Interior*, 523 F.3d 1128, 1134 (9th Cir. 2008) (courts routinely delay discovery
2 in FOIA actions until after summary judgment).

3 Here, there is no indication that discovery is warranted. Further, no motion for summary
4 judgment has been filed and the deadline for the filing of any such motion is October 8, 2012.
5 Thus, Plaintiff's requests for the issuance of subpoenas are, at best, premature. Accordingly, the
6 requests for issuance of subpoenas are HEREBY DENIED.

7 IT IS SO ORDERED.

8 **Dated: March 15, 2012**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE