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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOAQUIN GUERRA,
Plaintiff,

v.

KERN COUNTY SHERIFF'S
DEPARTMENT, et al.,
Defendants.

Case No. 1:13-cv-01077-AWI-BAM PC
**ORDER DENYING MOTION FOR
ISSUANCE OF SUBPOENA DUCES
TECUM WITHOUT PREJUDICE AS
PREMATURE**
(ECF No. 12)

Plaintiff Joaquin Guerra, a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on July 15, 2013. On June 10, 2014, the Court dismissed Plaintiff's complaint with leave to amend. (ECF No. 10.) Plaintiff filed an amended complaint on July 7, 2014. (ECF No. 11.)

On August 4, 2014, Plaintiff filed a motion for a court order directing service of a subpoena duces tecum on the Kern County Sheriff's Department. (ECF No. 12.) Plaintiff's motion requesting service of a subpoena duces tecum is premature.

The Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). Plaintiff's complaint, or any portion thereof, is subject to dismissal if it is frivolous or malicious, if it fails to state a claim upon which relief may be granted, or if it seeks monetary relief from a

1 defendant who is immune from such relief. 28 U.S.C. § 1915A(b)(1), (2); 28 U.S.C. §
2 1915(e)(2)(B)(ii). The Court has not screened Plaintiff's first amended complaint to determine
3 whether it is subject to dismissal or whether the action should proceed to discovery on Plaintiff's
4 claims. As discovery has not been opened in this matter, Plaintiff's motion seeking service of a
5 subpoena duces tecum is premature and is DENIED without prejudice. The Court will screen
6 Plaintiff's first amended complaint in due course.

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8 IT IS SO ORDERED.

9 Dated: August 7, 2014

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE

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