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5 **UNITED STATES DISTRICT COURT**  
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7 **EASTERN DISTRICT OF CALIFORNIA**  
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9 MARIO DULANEY, ) Case No. 1:14-cv-1051-LJO-BAM  
10 Plaintiff, )  
11 v. ) ORDER DENYING MOTION FOR  
12 JERRY DYER, FRESNO POLICE ) MEDICAL RECORDS FILE (Doc. 8.)  
13 DEPARTMENT, FRESNO POLICE )  
14 OFFICER RICHARD BADILLA, FRESNO )  
15 POLICE OFFICER MATHEW SILVER )  
Defendant. )

16 Plaintiff Mario Dulaney (“Plaintiff”) appears to be a pretrial detainee<sup>1</sup> proceeding pro se  
17 and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this  
18 action on July 3, 2014 and the court screened the complaint and granted Plaintiff leave to amend.  
19 On October 24, 2014, Plaintiff filed a First Amended Complaint which is currently pending  
20 screening. Plaintiff names Police Chief Jerry Dyer, Fresno Police Officer Richard Badilla, and  
21 Fresno Police Officer Mathew Silver as defendants. Plaintiff has consented to magistrate judge  
22 jurisdiction.

23 On October 24, 2014, Plaintiff filed a motion entitled “Court Order of All Medical File.”  
24 (Doc. 8.) The motion asks that the court order his medical file from Fresno Community  
25 Regional Medical Center. The court will construe Plaintiff’s Motion as a request for a subpoena  
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28 <sup>1</sup> The allegations are unclear if Plaintiff is a pretrial detainee or a sentenced prisoner. For purposes of this order, the Court will assume Plaintiff is a pretrial detainee.

1 duces tecum to Fresno Community Regional Medical Center for these documents pursuant to  
2 Rule 45 of the Federal Rules of Civil Procedure.

3 The request for subpoenas is denied as premature. The First Amended Complaint, filed  
4 on October 24, 2014, has not yet been screened. The court is required to screen complaints  
5 brought by prisoners seeking relief against a governmental entity or officer or employee of a  
6 governmental entity. 28 U.S.C. § 1915A(a). The court must dismiss a complaint or portion  
7 thereof if the prisoner has raised claims that are legally “frivolous or malicious,” that fail to state  
8 a claim upon which relief may be granted, or that seek monetary relief from a defendant who is  
9 immune from such relief. 28 U.S.C. § 1915A(b)(1),(2). Until the complaint is screened, no  
10 claims are pending. Once the complaint is screened and if it states cognizable claims, the Court  
11 will send the complaint out for service on defendants. Discovery will commence when the court  
12 issues an order setting the schedule and terms of discovery, as the court ordinarily does after the  
13 defendants file their answers. The Court will open discovery and then Plaintiff may renew his  
14 request for documents, within limits that will be identified at an appropriate time.

15 The request for subpoena is premature and is DENIED, without prejudice.

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17 IT IS SO ORDERED.

18 Dated: January 16, 2015

19 /s/ Barbara A. McAuliffe  
20 UNITED STATES MAGISTRATE JUDGE  
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