

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

ROBERTO R. RECINO,  
Plaintiff,  
v.  
UNKNOWN,  
Defendant.

Case No. 1:15-cv-00362-LJO-BAM (PC)  
**ORDER GRANTING IN PART AND DENYING IN PART PLAINTIFF’S MOTION FOR SUBPOENA DUCES TECUM**  
(ECF No. 45)  
**ORDER AND NOTICE AUTHORIZING ISSUANCE OF SUBPOENA DUCES TECUM, AND DIRECTING CLERK’S OFFICE TO SERVE COPY OF SUBPOENA WITH ORDER**

Plaintiff Roberto Recino (“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 currently proceeds on Plaintiff’s third amended complaint against two unknown correctional officers for failing to intercede as Plaintiff was beaten by other inmates, and for delaying in obtaining medical treatment for him after the beating, in violation of the Eighth Amendment.

On June 23, 2017, the Court granted Plaintiff’s motion for a Rule 45 subpoena for documents which reasonably identify the unknown correctional officers who escorted Plaintiff to medical after he was beaten by other inmates. Plaintiff was directed to file a response within thirty (30) days, specifying: (1) the institution or institutions to which the subpoena(s) should be directed, and (2) the documents necessary to identify the Doe Defendants. (ECF No. 42.)

1 Plaintiff was further directed to limit his request so as to avoid undue burden and expense on the  
2 part of the responding party, see Fed. R. Civ. P. 45(d)(1), and was cautioned that the Court would  
3 not authorize service of a subpoena for documents which do not reasonably identify the Doe  
4 correctional officers who escorted Plaintiff to medical. (ECF No. 42, at 3.)

5 On July 21, 2017, Plaintiff filed a motion for extension of time to provide the information  
6 needed to issue the Rule 45 subpoena, (ECF No. 43), which the Court granted, (ECF No. 44).

7 Currently before the Court is Plaintiff's renewed motion for a Rule 45 subpoena for  
8 documents which reasonably identify the Doe correctional officers who escorted Plaintiff to  
9 medical after he was beaten by other inmates. (ECF No. 45.) Plaintiff requests that the subpoena  
10 be directed to Old Corcoran State Prison, located at 4001 King Avenue, Corcoran, California  
11 93212. Plaintiff requests the following documents:

- 12 (1) The incident report that is mandatorily required to be issued when "acts of violence"  
13 occur leading to medical treatment—CDCR form 837-A (Cal. Code of Reg. title-15,  
14 Div. 3, § 3268.1(a)).
- 15 (2) Any and "all" Rule Violation Reports (RVR's) issued in relations to the attack that  
16 occurred against Plaintiff between April–August 2004. (CDC form 804 (Cal. Code of  
17 Reg. title-15, Div. 3, §§ 3313, 3315.)
- 18 (3) Any and all "field staff" use of force reports—CDCR form 1662-A, 1662-B, 1662-C,  
19 and 3010-A (Cal. Code of Reg. title-15, Div. 3, § 3268.3). Date of allegation: April–  
20 August 2004.
- 21 (4) Any and all medical reports written in relations to the acts of violence against Plaintiff,  
22 occurring between April–August 2004.
- 23 (5) CDC form 114D, administrative detention records issued between April–August 2004.

24 Plaintiff further requests any and all records that may be associated with the aforementioned  
25 incident, irrespective of whether the documents bear Plaintiff's name. (Id.)

26 For the reasons stated in the Court's June 23, 2017 order granting Plaintiff's request for a  
27 subpoena, (ECF No. 42), the Court finds that it is in the interest of justice to authorize the  
28 issuance of a subpoena duces tecum in this matter. However, the Court finds that the requested

1 documents are not tailored so as to avoid undue burden and expense on the part of the responding  
2 party, as required by Rule 45(d)(1).

3 Specifically, Plaintiff's first request does not specify any date range for the requested  
4 documents, and the first and fifth requests are not limited to documents pertaining to Plaintiff.  
5 Furthermore, the Court finds that the first, second, third, and fifth requests, though potentially  
6 helpful to Plaintiff, are not necessary for the specific purpose of identifying the Doe defendants to  
7 effectuate service of process. The Court finds that Plaintiff's fourth request, for Plaintiff's  
8 medical reports from April to August 2004, is appropriately limited to documents that might  
9 reveal the identity of the Doe defendants, without imposing undue burden or expense.

10 Accordingly, IT IS HEREBY ORDERED as follows:

- 11 1. The Court authorizes the issuance of a subpoena duces tecum directing the Warden of  
12 California State Prison, Corcoran, to produce any and all medical reports relating to  
13 Plaintiff, from April 2004 to August 2004;
- 14 2. Pursuant to Rule 45(a)(4), Plaintiff is placed on notice that the subpoena duces tecum  
15 will be issued within ten (10) days from the date of service of this order; and
- 16 3. The Clerk's Office shall serve a copy of the subpoena with this order.

17  
18 IT IS SO ORDERED.

19 Dated: September 12, 2017

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