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**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 REQUESTING RESPONSE  
REGARDING COMPLIANCE WITH  
SUBPOENA DUCES TECUM  
**THIRTY (30) DAY DEADLINE**

Plaintiff Roberto R. 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 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 July 27, 2016, the Court found service of Plaintiff’s third amended complaint appropriate and directed Plaintiff to provide, within forty-five (45) days, a motion to substitute the identities of the Doe Defendants or a status report indicating the actions he took to locate their names. (ECF No. 33.)

Following a series of motions to compel and for issuance of a subpoena, on September 13, 2017, the Court granted in part Plaintiff’s motion for issuance of a subpoena duces tecum directing the Warden of California State Prison, Corcoran (“CSP-Corcoran”), to produce any and

1 all medical reports relating to Plaintiff, from April 2004 to August 2004. (ECF No. 46.) The  
2 subpoena was returned executed on September 20, 2017. (ECF No. 48.) Plaintiff failed to  
3 communicate with the Court thereafter, and on April 17, 2018, the Court issued an order directing  
4 Plaintiff to provide written notice identifying the Doe Defendants or to show cause why the Doe  
5 Defendants should not be dismissed and this action closed. (ECF No. 49.)

6 On May 30, 2018, the assigned Magistrate Judge issued findings and recommendations  
7 recommending that the Doe Defendants be dismissed and this action closed, without prejudice.  
8 (ECF No. 50.) The findings and recommendations were served on Plaintiff and contained notice  
9 that any objections thereto were to be filed within fourteen (14) days after service. (Id.) No  
10 objections were filed, and the findings and recommendations were adopted on June 25, 2018.  
11 (ECF No. 51.) Judgment was entered accordingly the same day. (ECF No. 52.)

12 On August 7, 2018, Plaintiff filed a motion to reopen the case and requesting appointment  
13 of counsel. (ECF No. 53.) The Court construed the motion to reopen the case as a motion for  
14 reconsideration and granted the motion on August 13, 2018. (ECF No. 54.)

15 In his motion for reconsideration, Plaintiff stated that, following service of the subpoena  
16 duces tecum, he never received a response from the Warden of CSP-Corcoran, the Court, or the  
17 Attorney General's Office regarding the requested documents. (ECF No. 51.)

18 The Court finds it appropriate to provide the Warden of CSP-Corcoran, or other  
19 representative of the California Department of Corrections and Rehabilitation, with the  
20 opportunity to respond to Plaintiff's motion. A response may be in the form of a short  
21 declaration, including any attachments relevant to the institution's compliance with the subpoena  
22 duces tecum. This order will be served on the Litigation Coordinator of CSP-Corcoran as well as  
23 Richard J. Donovan Correctional Facility ("RJD"), which is the institution where Plaintiff is  
24 currently housed.

25 Accordingly, it is **HEREBY ORDERED** that:

- 26 1. Within **thirty (30) days** from the date of this order, the Warden of CSP-Corcoran, or  
27 other representative of CDCR, shall file a response regarding compliance with the  
28 September 13, 2017 subpoena duces tecum, as discussed above; and

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2. The Clerk of the Court is directed to serve a copy of this order, by email, on the  
Litigation Coordinators of CSP-Corcoran and RJD.

IT IS SO ORDERED.

Dated: August 17, 2018

/s/ Barbara A. McAuliffe  
UNITED STATES MAGISTRATE JUDGE