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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

TOM MARK FRANKS,
Plaintiff,
vs.
SERGEANT KIRK, *et al.*
Defendant.

Case No. 1:15-cv-00401-EPG-PC
**ORDER DENYING REQUEST FOR
SUBPOENA**
(ECF No. 37)

Plaintiff Tom Franks, proceeding *pro se* and *in forma pauperis*, initiated this action on March 2, 2015. (ECF No. 1.) Plaintiff’s complaint alleges that he was injured by another inmate while he was a pre-trial detainee at the Stanislaus County Public Safety Center in Modesto. On May 11, 2017, Plaintiff filed a request for the issuance of a subpoena to the Stanislaus County Sheriff’s Department.¹ In particular, the requested subpoena asks for “[t]he ‘keep away’ order from on or around 8/9/2012 between inmate Tom Franks #1303249 and Joe Dixon #1238680, and the incident report from the incident that caused the ‘keep away’ to be placed. And any ‘inmate request’ forms from inmate Tom Franks from dates 7/15/2012 to 8/9/2012. Evidence of knife taken from Joe Dixon during 8/9/2012 incident.”

Defendants have filed a short opposition to the request, stating that they received a request

¹ The Stanislaus County Sheriff’s Department is not a defendant in this litigation

1 for document production from Plaintiff that requests the same items that were named in the
2 request for subpoena. Defendants did not receive this request until May 11, 2017, the same date
3 Plaintiff filed his request for subpoena. Defendants represent that they are in the process of
4 obtaining the requested documents from the Sheriff's Department and will produce them to
5 Plaintiff.
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7 As previously explained to Plaintiff, the Court will only issue a subpoena if Plaintiff is
8 unable to obtain the targeted documents directly from Defendants and the Court determines that
9 Plaintiff is entitled to the documents. Defendants appear to be taking steps to obtain the requested
10 items and have agreed to produce the documents requested. Plaintiff's request for subpoena (ECF
11 No. 37) is thus DENIED, without prejudice.
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14 IT IS SO ORDERED.

15 Dated: June 12, 2017

16 /s/ Eric P. Gray
17 UNITED STATES MAGISTRATE JUDGE
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