

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

SCOTT K. RICKS,)	1:15-cv-01150-AWI-BAM (PC)
)	
Plaintiff,)	ORDER DENYING PLAINTIFF’S MOTION
)	FOR DISCOVERY OF MEDICAL AND
v.)	PSYCHIATRIC RECORDS FROM THE
)	DEPARTMENT OF STATE HOSPITALS AT
G. LEVINE, et al.,)	NO COST
)	
Defendants.)	(ECF No. 46)
)	
)	

Plaintiff Scott K. Ricks (“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 is related to Ricks v. Austria, et al., 1:15-cv-01147-AWI-BAM, and Ricks v. Onyeye, et al., 1:15-cv-1148-AWI-BAM. This matter was referred to the undersigned pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

Currently before the Court is motion for discovery of any and all medical and psychiatric records, filed February 23, 2017. (ECF No. 46). Plaintiff seeks an order requiring the Department of State Hospitals to produce copies of all of his medical and psychiatric records from October 22, 2015 through February 2, 2016, free of charge, due to his in forma pauperis status. Plaintiff asserts that the records concern his hospitalization at Atascadero State Hospital, and are relevant to this case. Plaintiff attaches his request for these records to Atascadero State Hospital. In response, the Hospital provided to Plaintiff some summaries of his records at no cost, but informed him that additional copies would be charged at \$.10 per page. (Id. at 19-20.)

1 The Court does not have jurisdiction to order the Department of State Hospitals to
2 provide Plaintiff with records free of charge. Although, subject to certain limitations, the Court
3 may issue a subpoena duces tecum to Atascadero State Hospital to produce relevant records,
4 Plaintiff must pay the fees charged for acquiring such records. Plaintiff's in forma pauperis status
5 permits certain court costs and fees to be excused or postponed, but it does not entitle him to free
6 copies of records from an unrelated third party. See, e.g., Hughes v. Friedman, No. CV-12-697-
7 PHX-GMS, 2013 WL 93177, at *1 (D. Ariz. Jan. 8, 2013) ("Even though Plaintiff was granted in
8 forma pauperis status pursuant to 28 U.S.C. § 1915(d), he is responsible for paying all fees and
9 costs associated with subpoenas, including the costs of his own medical records.")

10 If Plaintiff seeks a subpoena duces tecum regarding this matter, he may file a motion
11 seeking such, and service of the subpoena will be provided by the United States Marshal under
12 28 U.S.C. § 1915(d). However, Plaintiff is advised that he will be required to pay any fees
13 associated with the production of those records.

14 For the foregoing reasons, it is HEREBY ORDERED that Plaintiff's motion for
15 discovery of any/all medical and psychiatric records, filed February 23 2017 (ECF No. 46), is
16 DENIED.

17
18 IT IS SO ORDERED.

19 Dated: February 27, 2017

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE