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5 **UNITED STATES DISTRICT COURT**

6 EASTERN DISTRICT OF CALIFORNIA

7
8 GARDELL COWART,

9 Plaintiff,

10 v.

11 RAHMAN, et al.,

12 Defendants.

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14 **1:16-cv-00004-AWI-SKO (PC)**

15 **ORDER WITHDRAWING ORDER
GRANTING PLAINTIFF'S REQUEST FOR
ISSUANCE OF SUBPOENA TO OBTAIN
RECORDS FROM DIGNITY HEALTH,
MERCY HOSPITAL**

16
17 **(Doc. 44)**

18 Plaintiff is a prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action
19 pursuant to 42 U.S.C. § 1983. This action is proceeding on Plaintiff's claims in the First
20 Amended Complaint against Dr. Ngozi Ignibinoza, Dr. Scharffenberg, Dr. Kandkhorova, Dr.
21 Ugwueze, and Dr. Sunduram for deliberate indifference to Plaintiff's serious medical needs in
22 violation of the Eighth Amendment. On August 29, 2017, Plaintiff filed a subpoena to obtain
23 medical records for treatment he received at Dignity Health, Mercy Hospital, 2215 Truxtun Ave.,
24 Bakersfield, CA, 93301. (Doc. 43.)

25 On October 3, 2017, an order issued indicating that Plaintiff met the requirements for a
26 subpoena to issue. (Doc. 44.) In the order, defense counsel was directed to file a statement
27 indicating the steps taken to obtain the records sought by Plaintiff and whether counsel would be
28 willing to provide Plaintiff copies of any documents obtained. (*Id.*) On October 12, 2017,
defense counsel filed a statement indicating that records from the facility were Plaintiff is
currently housed had been recently received and included records from outside providers. (Doc.
45.) Defense counsel forwarded a copy of the records received to Plaintiff that same week. (*Id.*)

1 It, therefore, appears that a subpoena is no longer required.

2 If after receipt and review of those records, Plaintiff believes they are incomplete, Plaintiff
3 may file a renewed request for a subpoena. Before any subpoena will issue, the request must
4 specifically state which records are lacking and their relevance to this action.

5 Based on the foregoing, it is **HEREBY ORDERED** that the order granting Plaintiff's
6 request to subpoena records from Dignity Health, Mercy Hospital, issued on October 3, 2017,
7 (Doc. 44) is **WITHDRAWN**.

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9 IT IS SO ORDERED.

10 Dated: October 17, 2017

11 /s/ Sheila K. Oberlo
12 UNITED STATES MAGISTRATE JUDGE

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