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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
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10 JERRY LEE KING,

11 Plaintiff,

12 v.

13 R. VILLEGAS and P. CRUZ,

14 Defendants.
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Case No. 1:17-cv-00676-AWI-EPG (PC)

ORDER DENYING PLAINTIFF'S
MOTION FOR ISSUANCE OF A
SUBPOENA DUCES TECUM, WITHOUT
PREJUDICE

(ECF NO. 49)

17 Jerry King ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in
18 this civil rights action filed pursuant to 42 U.S.C. § 1983.

19 On February 7, 2019, Plaintiff filed a motion for the issuance of a subpoena duces
20 tecum. (ECF No. 49). Plaintiff asks that the Warden of Kern Valley State Prison be ordered to
21 produce a CD containing video surveillance evidence (Plaintiff alleges that a camera recorded
22 the incident on August 17, 2016, at 9:55 a.m.). Alternatively, if the camera did not record,
23 Plaintiff asks for documents containing the names of the officers who watched the live feed
24 monitors.

25 It appears that Plaintiff is seeking relevant documents and electronically stored
26 information. However, Plaintiff failed to make a showing that the requested documents and
27 electronically stored information are only available through a third party. (See ECF No. 36, p.
28 4). Plaintiff should first request the documents and electronically stored information from

1 Defendants. If Defendants object on the ground that they do not have possession, custody, or
2 control of the documents and electronically stored information, Plaintiff may refile this motion,
3 along with Defendants' objection.

4 Accordingly, it is HEREBY ORDERED that Plaintiff's motion for the issuance of a
5 subpoena duces tecum is DENIED without prejudice.

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7 IT IS SO ORDERED.

8 Dated: February 12, 2019

9 /s/ Eric P. Groj
10 UNITED STATES MAGISTRATE JUDGE
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