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

RICHARD SCOTT KINDRED,

Plaintiff,

v.

BRANDON PRICE, et al.,

Defendants.

Case No. 1:18-cv-00554-DAD-EPG (PC)

ORDER GRANTING MOTION TO QUASH
SUBPOENA ADDRESSED TO CHIEF DAVID
LANDRUM (RET.)

(ECF NO. 45)

17 Plaintiff, Richard Scott Kindred, a civil detainee at the Coalinga State Hospital, is
18 proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C.
19 § 1983. Before the Court is Defendant's motion to quash the subpoena addressed to Chief
20 David Landrum (Ret.) (ECF No. 45.) The subpoena commands Chief Landrum, a non-party to
21 this action, to appear at 24511 West Jayne Avenue, Coalinga, CA 93210 on May 26, 2020, at
22 10:00 a.m. and to bring "Any documents, police reports and/or investigations wherein plaintiff
23 is the subject of conversation." (ECF No. 45-2 at 4.) Plaintiff has not filed an opposition to the
24 motion.

25 Because the subpoena was issued in violation of the Court's scheduling order and
26 Federal Rule of Civil Procedure 45(a)(3), the Court will grant the motion to quash.

27 The Court's scheduling order, which sets forth the process that Plaintiff must use to
28 request a third-party subpoena, states:

1 With the Court's permission, Plaintiff may serve third party subpoenas if Plaintiff
2 seeks documents from entities that are not presently defendants in this case. To
3 issue a subpoena on these entities, or any other third parties, Plaintiff must file a
4 request for the issuance of a subpoena *duces tecum* with the Court. If the Court
5 approves the request, it may issue Plaintiff a subpoena *duces tecum*, commanding
6 the production of documents from a non-party, and may command service of the
7 subpoena by the United States Marshals Service. Fed. R. Civ. P. 45; 28 U.S.C.
8 1915(d).

9 (ECF No. 43 at 3.)

10 Plaintiff neither requested nor obtained permission for the issuance of a third-party
11 subpoena. Thus, the subpoena violates the Court's scheduling order.

12 Moreover, the subpoena was not issued and signed by the Clerk of Court nor was it
13 issued and signed by an attorney. Instead, the subpoena was apparently issued by Plaintiff and
14 is signed by Plaintiff as "attorney." The subpoena thus violates Federal Rule of Civil
15 Procedure 45, which requires a subpoena to be issued and signed by the clerk of the court or
16 by an attorney authorized to practice before the issuing court. Fed. R. Civ. P. 45(a)(3).

17 IT IS ORDERED that the motion to quash the subpoena addressed to Chief David
18 Landrum (Ret.) (ECF No. 45) is GRANTED.

19 IT IS SO ORDERED.

20 Dated: June 25, 2020

21 /s/ Eric P. Gray
22 UNITED STATES MAGISTRATE JUDGE
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