

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

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

CURTIS J. WILLIAMS,

Plaintiff,

No. 2:05-cv-0164 JAM EFB P

vs.

R.W. SANDHAM, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. Plaintiff requests ten blank subpoena forms for his unincarcerated witnesses who refuse to testify voluntarily. Dckt. No. 158. The court will direct the Clerk to mail to plaintiff the blank subpoena forms.

Notwithstanding the court’s multiple warnings, plaintiff appears to be under the impression that any witness fees will be waived due to his *in forma pauperis* status. See Dckt. Nos. 157, 158. Plaintiff is reminded that:

If plaintiff desires to compel the attendance at trial of any unimprisoned witness, plaintiff must obtain a subpoena from the court clerk, deliver it to the marshal for service upon the witness with a \$40 witness fee and the witness’ travel expenses, which the marshal will calculate, and ensure the return service of the subpoena at least 14 days before trial.

Dckt. No. 28 at 2-3; Dckt. No. 150 at 6 n.2. The *in forma pauperis* statute does not authorize the

1 court to waive witness fees or expenses paid to those witnesses. *Dixon v. Ylst*, 990 F.2d 478, 480
2 (9th Cir. 1993); *see* 28 U.S.C. § 1915. Thus, a subpoena will not be served upon an
3 unincarcerated witness by the United States Marshal unless a money order is tendered to the
4 court. If plaintiff wishes to have the Marshal serve any unincarcerated witnesses who refuse to
5 testify voluntarily, plaintiff must *promptly* submit the money orders with the completed
6 subpoena forms to the court.

7 Accordingly, IT IS HEREBY ORDERED that the Clerk is directed to forward to plaintiff
8 ten blank subpoena forms. The Clerk is further directed to terminate Dckt. Nos. 157, 158.

9 DATED: January 16, 2013.

10 

11 EDMUND F. BRENNAN
12 UNITED STATES MAGISTRATE JUDGE
13
14
15
16
17
18
19
20
21
22
23
24
25
26