

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  
FOR THE EASTERN DISTRICT OF CALIFORNIA

BENJAMIN T. CARIDAD,  
Petitioner,  
v.  
HARRY OREOL,  
Respondent.

No. 2:14-cv-1847 KJM AC P

ORDER

Petitioner, who is represented by appointed counsel, challenges his civil commitment to the Department of State Hospitals under 28 U.S.C. § 2254. An evidentiary hearing on the question of equitable tolling is scheduled for August 20, 2018. Currently pending is petitioner’s timely request for this court’s issuance of six subpoenas duces tecum. See ECF No. 99. Respondent does not object to petitioner’s request. See ECF No. 100. For the reasons that follow, petitioner’s request is granted in full.

Pursuant to Rule 45, Federal Rules of Civil Procedure, a subpoena may issue from the court where the action is pending and direct a non-party to the action to produce documents or other tangible things. Reliance on Rule 45 is limited by the relevance standards set forth in Rule 26(b)(1) (“Parties may obtain discovery regarding any nonprivileged matter that is relevant to any party’s claim or defense and proportional to the needs of the case[.]”). In addition, this court requires that a motion for issuance of a subpoena duces tecum be supported by: (1) clear

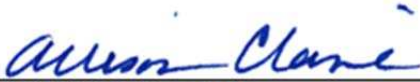
1 identification of the documents sought and from whom, and (2) a showing that the records are  
2 obtainable only through the identified third party. See e.g. Davis v. Ramen, 2010 WL 1948560,  
3 \*1 (E.D. Cal. 2010); Williams v. Adams, 2010 WL 148703, \*1 (E.D. Cal. 2010). This court has  
4 reviewed petitioner's requests and finds that each request meets these requirements, and is  
5 relevant to petitioner's claim of equitable tolling based on his serious mental illness and the  
6 abandonment of his state counsel.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Petitioner's request for issuance of six subpoenas duces tecum, ECF No. 99, is granted  
9 in full; and
- 10 2. The Clerk of Court is directed to immediately issue to petitioner's counsel six (6)  
11 subpoenas duces tecum forms, signed but otherwise blank, pursuant to Fed. R. Civ. P. 45(a)(3).

12 SO ORDERED.

13 DATED: April 19, 2018

14   
15 ALLISON CLAIRE  
16 UNITED STATES MAGISTRATE JUDGE  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28