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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN A. SORENSON,  
Petitioner,  
v.  
MARION SPEARMAN,  
Respondent.

No. 2:15-cv-1304 DAD P

ORDER

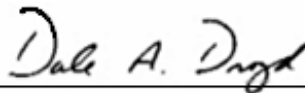
Petitioner is a state prisoner proceeding through counsel with an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent filed an answer on September 14, 2015. Petitioner’s traverse is due to be filed on October 14, 2015.

On September 10, 2015, petitioner filed a document entitled “Request for Fees and Order for Subpoena’s Duces Tecum.” (ECF No. 15.) Therein, petitioner requests that this court issue two subpoenas to produce documents from the Tehama County District Attorney and the California Highway Patrol (CHP), Red Bluff Station, regarding whether a CHP Officer Burson was available to appear at a February, 2012 preliminary hearing held in the state court criminal proceedings which resulted in the conviction petitioner is challenging in these federal habeas proceedings. (Id. at 1-2.) Petitioner apparently contends that the documents he seeks are relevant to support his federal habeas claim that the state trial court erred in finding good cause to continue his preliminary hearing.

1           Until this court has the opportunity to conduct a thorough review of the merits of  
2 petitioner's claims, the undersigned cannot determine whether there is a factual dispute  
3 necessitating an evidentiary hearing or supplementation of the record in this case. Following such  
4 a review, the court will sua sponte issue an order for an evidentiary hearing or for expansion of  
5 the record, should it find that such a course of action is necessary and appropriate. Accordingly,  
6 petitioner's September 10, 2015 request for the issuance of a subpoena duces tecum will be  
7 denied at this time without prejudice to the court's consideration of whether an evidentiary  
8 hearing or supplementation of the record is called for at the appropriate time.

9           For the foregoing reasons, IT IS HEREBY ORDERED that petitioner's September 10,  
10 2015 request for the issuance of a subpoena duces tecum (ECF No. 15) is denied without  
11 prejudice.

12 Dated: September 22, 2015

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15 DALE A. DROZD  
16 UNITED STATES MAGISTRATE JUDGE

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