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 SOUTHERN DISTRICT OF CALIFORNIA
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UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

IMMANUEL PRICE, CDCR No. AX-3761, Plaintiff, v. JOHN DOE OFFICER K9 HANDLER, Defendant.
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Case No.: 3:16-cv-01174-CAB-KSC
ORDER RE SECOND MOTION TO EXPEDITE DISCOVERY
[Doc. No. 23]

On February 17, 2017, plaintiff Immanuel Price, currently incarcerated, and proceeding *pro se* and *in forma pauperis*, filed a "Second Motion to Expedite Discovery." [Doc. No. 23.] The Court construes the Motion as a request by plaintiff to serve a subpoena pursuant to Federal Rule of Civil Procedure 45, prior to the Rule 26(f) conference, on the San Diego Sheriffs' Department to ascertain the identity of the unknown officer K9 handler who allegedly violated his civil rights. As plaintiff has not named or served defendant John Doe Officer K9 Handler in the action, no opposition or reply briefs have been filed. For good cause shown, plaintiff's Second Motion to Expedite Discovery, is **GRANTED**.

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1 number SCE 338346¹.” [Doc. No. 12.] Plaintiff included a Proof of Service By Mail
2 indicating that he sent a letter to the La Mesa Police Department on August 17, 2016
3 requesting information. Plaintiff claims that because “the department has yet to respond to
4 these requests,” he is unable to identify the John Doe Officer K9 Handler and complete the
5 Form 285 as directed by the Court. [Doc. No. 12.] Plaintiff requested an extension of time
6 to obtain the identifying information and “that the Court fashion an adequate remedy.”
7 [Doc. No. 12, at p. 2.] The Court granted plaintiff’s first *Ex Parte* Motion to Expedite
8 Discovery on December 2, 2016.² [Doc. No. 16.]

9 In plaintiff’s second *Ex Parte* Motion to Expedite Discovery, he asserts that he
10 “received notification from [] the U.S. Marshals service that the La Mesa Police
11 Department refused to accept service of the Subpoena to Produce.” [Doc. No. 23, at p. 1.]
12 Plaintiff contends that “[t]he LMPD Records Clerk specifically refused because[,]
13 according to the clerk[,] the K-9 Handler, active on 2/28/2014 whom Plaintiff sought to
14 identify was actually employed by the San Diego Sheriffs[’] Department.” *Id.* In plaintiff’s
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17 ¹ Plaintiff asserted that SCE 338346 is the case number for his underlying state court case in which he
18 was arrested on February 28, 2014. [Doc. No. 12, at p. 1; Doc. No. 1, at pp. 2-3.]

19 ² The court ordered the following on December 2, 2016:

- 20 (1) Plaintiff may serve a Rule 45 subpoena on defendant’s employer, La Mesa Police
21 Department. The subpoena shall be limited to documents regarding the identity of the John
22 Doe Officer K9 Handler who allegedly entered plaintiff’s residence with a canine on or about
23 February 28, 2014.
24 (2) The Clerk of Court is directed to mail plaintiff the following:
25 a. A copy of this Order;
26 b. A copy of the Court’s June 15, 2016 order granting IFP status (Doc. No. 3); and
27 c. One subpoena duces tecum form, signed by other blank (AO-88B “Subpoena to
28 Produce Documents, Information, or Objects”);
(3) Within twenty-one (21) days of this Order, plaintiff shall complete the subpoena duces tecum
form and return it, along with a copy of this Order to the United States Marshal for service.
(4) The subpoena must provide a minimum of forty-five (45) day notice before the date of
production.
(5) No deposition or other discovery is authorized at this time.

[Doc. No. 16, at pp. 7-8.]

1 instant Motion, he requests another “subpoena to produce” so that it can be served on the
2 San Diego Sheriffs’ Department for identification of the K-9 Handler in question. *Id.*

3 This Court set forth the standard for expedited discovery and related analysis of
4 plaintiff’s facts in its previous Order granting plaintiff’s first *Ex Parte* Motion for
5 Expedited Discovery, issued on December 2, 2016. [Doc. No. 16, at pp. 4-6.] Thus, the
6 Court does not reiterate herein the applicable standard and related analysis, as the facts are
7 the same, with the exception that plaintiff now contends that the K-9 Handler appears to
8 be employed by the San Diego Sheriffs’ Department. [Doc. No. 23, at p. 1.]

9 Accordingly, for good cause shown, the Court **GRANTS** plaintiff’s second *Ex Parte*
10 Motion to Expedite Discovery to conduct limited discovery for the sole purpose of
11 identifying the Doe defendant. The Court will direct the Clerk of Court to mail to plaintiff,
12 with this Order, one subpoena duces tecum form, signed but otherwise blank (AO-88B
13 “Subpoena to Produce Documents, Information or Objects”), which should be completed
14 by plaintiff. When completing this subpoena, plaintiff is required to specify which
15 documents he is seeking. The request must be specific enough to determine what plaintiff
16 seeks (for example, the identity of Doe defendant). Plaintiff’s *in forma pauperis* status
17 allows him assistance in the service of a completed records subpoena by the United States
18 Marshal. *See* 28 U.S.C. § 1915(d). Plaintiff is advised that he must comply with Rule 45
19 of the Federal Rules of Civil Procedure, which governs the issuance of non-party
20 subpoenas.

21 CONCLUSION

22 For the reasons set forth above, plaintiff’s second *Ex Parte* Motion for Expedited
23 Discovery—is **GRANTED**. [Doc. No. 23.] Accordingly, it is **HEREBY ORDERED**:

- 24 1. Plaintiff may serve a Rule 45 subpoena on defendant’s employer, San Diego
25 Sheriffs’ Department. The subpoena shall be limited to documents regarding
26 the identity of the John Doe Officer K9 Handler who allegedly entered
27 plaintiff’s residence with a canine on or about February 28, 2014.
- 28 2. The Clerk of Court is directed to mail to plaintiff the following:

- 1 a. A copy of this Order and the Court's December 2, 2016 Order [Doc. No.
2 16];
- 3 b. A copy of the Court's June 15, 2016 order granting IFP status [Doc. No.
4 3]; and
- 5 c. One subpoena duces tecum form, signed but otherwise blank (AO-88B
6 "Subpoena to Produce Documents, Information or Objects");
- 7 3. Within twenty-one (21) days of this Order, plaintiff shall complete the
8 subpoena duces tecum form and return it, along with a copy of this Order, to
9 the United States Marshal for service.
- 10 4. The subpoena must provide a minimum of a forty-five (45) day notice before
11 the date of production.
- 12 5. No deposition or other discovery is authorized at this time.

13 **IT IS SO ORDERED.**

14 Dated: May 26, 2017

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18 Hon/ Karen S. Crawford
19 United States Magistrate Judge

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