

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MARIO LEE JOHNSON,

Case No. 3:16-cv-00620-SB

Plaintiff,

ORDER

v.

JENNIFER SPIVEY; MOLLY STRONG,

Defendants.

BECKERMAN, Magistrate Judge.

Plaintiff Mario Johnson (“Plaintiff”), appearing *pro se*, has requested the issuance of a subpoena *duces tecum* (ECF 38). Specifically, Plaintiff asks the Court to issue a subpoena directed to Jesse B. Davis, counsel for Defendants Jennifer Spivey and Molly Strong, commanding the production of “all records (electronic and hard copies), all court transcripts and other tangible information relating to the C.P.S. case and juvenile dependency case re: minor child [W.M.], [A.M.], and [M.J.]”

Under FED. R. CIV. P. 34(c) and FED. R. CIV. P. 45(a)(D), the parties to a case in this court may obtain discovery from non-parties through a subpoena compelling the production of

documents and tangible things, or permitting an inspection. FED. R. CIV. P. 45(a)(D) does not, however, apply to discovery sought from a party. *See Wirtz v. Local Union 169, Intern. Hod Carriers' Bldg. and Common Laborers' Union of America, AFL-CIO*, 37 F.R.D. 349, 351 (D. Nev. 1965) (subpoena *duces tecum* is not intended as substitute for request to produce where subpoena requires production of documents under control of party as distinguished from independent witness). Here, Plaintiff has other options for seeking discovery from Defendants. *See* FED. R. CIV. P. 26-36.

CONCLUSION

For these reasons, Plaintiff's request for issuance of a subpoena *duces tecum* (ECF No. 38) is DENIED.

IT IS SO ORDERED.

DATED this 31st day of July, 2017.



STACIE F. BECKERMAN
United States Magistrate Judge