

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA**

James Scott v. A. Ventura, et al.

Scott v. Ventura · No. 25-cv-07188-HSG · Decided December 3, 2025

OPINION

Scott

PER CURIAM.

1 2 3

4 UNITED STATES DISTRICT COURT

5 NORTHERN DISTRICT OF CALIFORNIA

6 7 JAMES SCOTT, Case No. 25-cv-07188-HSG 8 Plaintiff, ORDER GRANTING REQUEST
FOR

SUBPOENA FORMS; DIRECTIONS TO

9 v. CLERK 10 A. VENTURA, et al., Re: Dkt. No. 8 11 Defendants. 12 13 Plaintiff, an
incarcerated person currently housed at Salinas Valley State Prison (“SVSP”), 14 has filed a pro se
action pursuant to 42 U.S.C. § 1983, alleging that Defendants used excessive 15 force and
sexually harassed him, in violation of the Eighth Amendment. Dkt. Nos. 1, 4. This 16 order
addresses Plaintiff’s request for a non-party subpoena to depose the “I.S.U. unit officer that 17
was involved in the incident on July 3, 2025, incident log number 115506.” Dkt. No. 8.

18 DISCUSSION

19 Dkt. No. 8 – Request for Blank Subpoenas. Plaintiff has requested a non-party subpoena 20 to
depose the “I.S.U. unit officer that was involved in the incident on July 3, 2025, incident log 21
number 115506.” Dkt. No. 8. The Court has no jurisdiction over non-parties. The Court 22
therefore construes this pleading as a request for blank subpoena forms because, to request 23
discovery from a non-party, Plaintiff must serve the non-party with a subpoena. Plaintiff’s 24
request for blank subpoena forms is GRANTED. Dkt. No. 8. 25 Directions to Clerk and Plaintiff.
The Clerk of the Court is directed to send Plaintiff two 26 (2) subpoena duces tecum forms.
Plaintiff needs to fill in all of the necessary information on the 27 subpoena form, including the
name of the person to whom this person is directed and the method 1 clerk may sign it. This is
because, as a pro se litigant, Plaintiff needs the Court’s Clerk to issue a 2 subpoena. Fed. R. Civ. P.
45(a)(3). Because Plaintiff is a pro se litigant, he may rely on the 3 United States Marshal to effect
service, but he must first obtain the Court’s authorization. In order 4 to have a subpoena issued to
a non-party, Plaintiff must return the completed subpoena to the 5 Court, along with a motion
requesting that the Clerk issue the subpoena and that the United States 6 Marshal Service effect
service on the non-party. In the motion, Plaintiff must (1) specify the 7 relevance of the

information sought by the subpoena(s) and how the relevance outweighs any 8 burden and expense that would be incurred by the non-party in providing the requested 9 information; (2) show that the records or information are obtainable only through the identified 10 third party; and (3) specify how he will bear the recording costs given his indigent status. Plaintiff 11 should attach the completed subpoena(s) to his motion. 12 Limitations on Third-Party Discovery. The Court's authorization of a subpoena duces 13 tecum requested by an in forma pauperis plaintiff is subject to limitations. Because personal 14 service of a subpoena duces tecum is required, Fed. R. Civ. P. 45(b), "[d]irecting the Marshal's 15 Office to expend its resources personally serving a subpoena is not taken lightly by the court," 16 *Austin v. Winett*, C No. 1:04-cv-05104-DLB PC, 2008 WL 5213414, at *1 (E.D. Cal. Dec. 12, 17 2008); 28 U.S.C. § 1915(d). Limitations include the relevance of the information sought as well 18 as the burden and expense to the non-party in providing the requested information. See Fed. R. 19 Civ. P. 26, 45. A motion for issuance of a subpoena duces tecum should be supported by clear 20 identification of the documents sought and a showing that the records are obtainable only through 21 the identified third party. See, e.g., *Davis v. Ramen*, C No. 1:06-cv-01216-AWI-SKO PC, 2010 22 WL 1948560, at *1 (E.D. Cal. May 11, 2010); *Williams v. Adams*, C No. 1:05-cv-00124-AWI- 23 SMS PC, 2010 WL 148703, *1 (E.D. Cal. Jan. 14, 2010). The "Federal Rules of Civil Procedure 24 were not intended to burden a non-party with a duty to suffer excessive or unusual expenses in 25 order to comply with a subpoena duces tecum." *Badman v. Stark*, 139 F.R.D. 601, 605 (M.D. Pa. 26 1991); see also *United States v. Columbia Broadcasting System, Inc.*, 666 F.2d 364, 368-69 (9th 27 Cir. 1982) (court may award costs of compliance with subpoena to non-party). Non-parties are 1 F.R.D. at 605. Plaintiff is free to pursue non-party discovery, but should keep in mind the 2 limitations on non-party discovery explained above. 3 Plaintiff's Request to Depose Unnamed ISU Officer. However, the Court cautions 4 Plaintiff that it will not issue a subpoena duces tecum to depose the "I.S.U. unit officer that was 5 involved in the incident on July 3, 2025, incident log number 115506" for the following reasons. 6 First, the United States Marshal Service cannot effect service on an unknown person. Plaintiff 7 should determine the identity of this I.S.U. officer before seeking to depose him or her. Plaintiff 8 may use the discovery process to ascertain this information. Second, it is unclear why Plaintiff 9 needs to depose the I.S.U. officer. To the extent that Plaintiff is seeking video footage of the July 10 3, 2025 incident from body worn cameras and surveillance cameras, it is unclear why Plaintiff 11 cannot obtain this footage through a discovery request to a party to the action.

12 CONCLUSION

13 For the reasons set forth above, the Court orders as follows. 14 1. The Court construes Dkt. No. 8 as a request for blank subpoena forms and 15 GRANTS the request. Dkt. No. 8. 16 2. The Clerk of the Court is directed to send Plaintiff two (2) document subpoena 17 duces tecum forms. If Plaintiff choose to use these forms, Plaintiff should fill out the forms 18 completely, including the name of the person to whom the subpoena is directed and the method by 19 which the deposition

will be recorded. Plaintiff must leave the signature line blank. In order to 20 have these subpoenas issued, Plaintiff must return the completed subpoena to the Court, along 21 with a motion requesting that the Clerk issue the subpoena and that the United States Marshal 22 Service effect service on the non-party. In the motion, Plaintiff must (1) specify the relevance of 23 the information sought by the subpoena(s) and how the relevance outweighs any burden and 24 expense that would be incurred by the non-party in providing the requested information; (2) show 25 that the records or information are obtainable only through the identified third party; and (3) 26 specify how he will bear the recording costs given his indigent status. Plaintiff should attach the 27 completed subpoena(s) to his motion. 1 Corrections and Rehabilitation from this action. The Court dismissed defendant California 2 || Department of Corrections and Rehabilitation from this action in the September 15, 2025 Order of 3 Service. Dkt. No. 4 at 3-4. 4 This order terminates Dkt. No. 8. 5 IT IS SO ORDERED. 6 Dated: 12/3/2025 navwood S. GILLIAM, JR. / 8 United States District Judge 9 10 11 a 12 13 14 15 16 = 17 Z 18 19 20 21 22 23 24 25 26 27 28