

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Thao v. Lynch

Thao · No. 2:21-cv-0731 KJM AC P · Decided March 13, 2023

SUMMARY

The United States District Court for the Eastern District of California denied a defendant’s motion to quash subpoenas served on nonparty California Department of Corrections and Rehabilitation entities because the defendant lacked standing to challenge relevance, burden, or third-party privacy interests. The court also denied without prejudice the plaintiffs’ purported motion to compel and denied their request for sanctions because the motion was not properly noticed and served. The order concerns discovery related to prison housing decisions and the death of the plaintiffs’ family member.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Allison Claire
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 13, 2023
DOCKET	2:21-cv-0731 KJM AC P
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Swarthout moved to quash subpoenas served by plaintiffs on nonparties California Department of Corrections and Rehabilitation and California State Prison-Sacramento. Plaintiffs opposed the motion, sought to compel compliance, and requested sanctions.
STANDARD OF REVIEW	Not applicable; the order resolved discovery motions.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

- discovery dispute
- civil procedure
- section 1983
- sanctions

PRACTICE AREAS

- civil procedure
- civil rights
- discovery

QUESTIONS PRESENTED

1. Whether a party has standing to move to quash subpoenas served on nonparties based on relevance, undue burden, or privacy and confidentiality concerns belonging to third parties.
2. Whether plaintiffs' request to compel compliance with the subpoenas was properly before the court when it was not separately noticed or identified as a cross-motion and the record did not establish proper service on the nonparties.
3. Whether sanctions should be imposed when the motion to compel was denied.

HOLDINGS

1. A party generally lacks standing to move to quash a subpoena served on a nonparty, except to assert a personal right or privilege in the information sought. Swarthout therefore lacked standing to object on relevance, undue-burden, privacy, or confidentiality grounds that belonged to the nonparties or third parties.
2. Plaintiffs' putative motion to compel was not properly before the court because it was not separately noticed or properly identified as a cross-motion, and the record did not establish that the nonparties had been properly served. The motion to compel was denied without prejudice.
3. Sanctions were denied because plaintiffs' motion to compel was denied.

KEY QUOTATIONS

“The general rule, however, is that a party has no standing to quash a subpoena served upon a third party, except as to claims of privilege relating to the documents being sought.” (at 2)

“A party cannot seek to quash a Rule 45 subpoena except to the extent that it has “a personal right or privilege in the information sought to be disclosed.”” (at 3)

“Plaintiffs’ putative motion to compel is a separate matter from the motion to quash, and therefore must be separately noticed in accordance with the applicable rules.” (at 3)

FACTUAL BACKGROUND

Plaintiffs alleged that prison officials were responsible for the death of their son or brother, who was murdered by his cellmate, Negrete. Their remaining claims were against Swarthout, a prison psychiatrist, after the claims against warden Lynch were dismissed. Plaintiffs sought documents and depositions from CDCR and CSP-Sacramento concerning housing decisions generally and the decision to house the decedent with Negrete. Swarthout objected based on privilege, privacy, relevance, burden, and plaintiffs' alleged violation of a protective order.

PROCEDURAL HISTORY

Plaintiffs filed an amended civil-rights complaint concerning the death of their son or brother, who was murdered by his cellmate. The district judge dismissed the claims against defendant Lynch, while the claims against Swarthout remained pending and no Doe defendants had been substituted. During discovery, plaintiffs served document-production subpoenas and deposition notices on CDCR and CSP-Sacramento. The magistrate

judge denied Swarthout's motion to quash for lack of standing and denied plaintiffs' motion to compel and request for sanctions without prejudice because those requests were not properly noticed and served.

DISPOSITION

other

CASES CITED

- Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)
- Cal. Sportfishing Prot. All. v. Chico Scrap Metal, Inc., 299 F.R.D. 638, 643 (E.D. Cal. 2014)
- Windsor v. Martindale, 175 F.R.D. 665, 668 (D. Colo. 1997)
- H.I.S.C., Inc. v. Franmar Int'l Imps., Ltd., No. 16-cv-480 BEN (WVG), 2018 WL 2095738, at *2-3, 2018 U.S. Dist. LEXIS 76879, at *6, 8 (S.D. Cal. May 7, 2018)
- G.K. Las Vegas Ltd. P'ship v. Simon Prop. Grp., Inc., No. 04-cv-1199 DAE GWF, 2007 WL 119148, at *3, 2007 U.S. Dist. LEXIS 97869, at *12 (D. Nev. Jan. 9, 2007)
- Freed v. Home Depot U.S.A., Inc., No. 18-cv-359 BAS (LL), 2019 WL 582346, at *2, 2019 U.S. Dist. LEXIS 23763, at *6 (S.D. Cal. Feb. 13, 2019)
- Chevron Corp. v. Donziger, No. 12-mc-80237 CRB (NC), 2013 WL 4536808, at *4, 2013 U.S. Dist. LEXIS 119622, at *14 (N.D. Cal. Aug. 22, 2013)

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