

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Benjamin F. Ellis v. Gabriel Williams, et al.

No. 2:23-cv-01962 WBS SCR P · No. No. 2:23-cv-01962 WBS SCR P · Decided November 24, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Benjamin F. Ellis’s request for issuance of five subpoenas duces tecum to departments within the California Health Care Facility. The court finds that the requested documents are relevant, clearly identified, and not within defendants’ possession or control. The Clerk is directed to provide signed blank subpoena forms, which Ellis must complete and return for potential service by the United States Marshal.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Sean C. Riordan
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 24, 2025
DOCKET	No. 2:23-cv-01962 WBS SCR P
DISPOSITION	other
PROCEDURAL POSTURE	In a prisoner civil-rights action under 42 U.S.C. § 1983, plaintiff moved for issuance of subpoenas duces tecum to nonparty departments within the California Health Care Facility. The magistrate judge granted the request and directed the Clerk to provide five signed blank subpoena forms for completion and subsequent service by the United States Marshal.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order

TOPICS

- discovery dispute
- civil procedure
- prisoners rights
- civil rights
- ada / disability

PRACTICE AREAS

- civil procedure
- prisoner civil rights
- disability discrimination

QUESTIONS PRESENTED

1. Whether plaintiff demonstrated that the requested nonparty documents were relevant, sufficiently identified, and obtainable only through CHCF so that the court should issue subpoenas duces tecum under Federal Rule of Civil Procedure 45.
2. What procedural conditions should govern issuance and service of the subpoenas, including completion of the forms, identification of the recipient, service by the United States Marshal, and potential payment of nonparty compliance costs.

HOLDINGS

1. The court granted plaintiff's request because he clearly identified the requested documents, established their relevance to his claims, and showed that the documents were not in defendants' possession or control and were uniquely available through CHCF officials.
2. Because plaintiff had been granted in forma pauperis status, he was entitled to obtain personal service of an authorized subpoena duces tecum by the United States Marshal under 28 U.S.C. § 1915(d), subject to proper completion of the subpoena forms.

KEY QUOTATIONS

“Accordingly, the court will direct the Clerk of Court to issue plaintiff five blank subpoena duces tecum form, signed but otherwise blank, pursuant to Fed. R. Civ. P. 45.” (at 5)

FACTUAL BACKGROUND

Plaintiff is incarcerated, has T-4 spastic paraplegia, and uses a wheelchair full time. He alleges that prison officials refused to provide him a safe or specialized wheelchair. He sought records from five CHCF departments concerning the wheelchair's purchase, medical justification, evaluation, inspection, and repair. Defendants represented that some records were not in their possession or control and that they had already produced the relevant records in their possession.

PROCEDURAL HISTORY

Plaintiff filed an operative first amended complaint alleging that prison officials refused to provide him a safe wheelchair. The court screened the complaint and found cognizable Eighth Amendment, disability-discrimination, First Amendment retaliation, and supplemental state-law claims; defendants answered, and the court entered a discovery and scheduling order. After plaintiff requested subpoenas for records from CHCF departments, the court required defendants to explain why the records had not been produced, and defendants stated that the documents were either not in their possession or had already been produced. The court then granted plaintiff's subpoena request.

DISPOSITION

other

CASES CITED

- Prescott v. County of Stanislaus, No. 1:10-cv-0592 JLT, 2012 WL 10617, at *3 (E.D. Cal. Jan. 3, 2012)

- *Badman v. Stark*, 139 F.R.D. 601, 605 (M.D. Pa. 1991)
- *United States v. Columbia Broadcasting System, Inc.*, 666 F.2d 364 (9th Cir. 1982)
- *Davis v. Ramen*, 2010 WL 1948560, at *1 (E.D. Cal. 2010)
- *Williams v. Adams*, No. 1:05-cv-0124 AWI SMS PC, 2010 WL 148703, at *1 (E.D. Cal. Jan. 13, 2010)

OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF
CALIFORNIA 10 11 BENJAMIN F. ELLIS, No. 2:23-cv-01962 WBS SCR P 12 Plaintiff, 13 v.
ORDER 14 GABRIEL WILLIAMS, et al., 15 Defendants. 16 17 Plaintiff is incarcerated in state
prison and proceeding pro se and in forma pauperis with 18 this civil rights action under 42 U.S.C.
§ 1983. Plaintiff has requested the issuance of subpoenas 19 duces tecum to various departments
within the California Health Care Facility (“CHCF”).

For the 20 reasons set forth below, plaintiff’s request is granted. Plaintiff is advised to review this
order and 21 comply with the instructions below regarding completing and returning the subpoena
forms. 22 PROCEDURAL BACKGROUND 23 Plaintiff, an individual with T-4 Spastic
Paraplegia and a full-time wheelchair user, sues 24 defendant Peterson, a former Associate
Warden, and G. Williams, a prison doctor, for allegedly 25 refusing to provide a safe wheelchair.

(ECF No. 12.) On December 11, 2024, the undersigned 26 screened the operative first amended
complaint (“FAC”) and determined it stated cognizable 27 Eighth Amendment, disability
discrimination, and supplemental state claims against Peterson, as 28 well as cognizable First
Amendment retaliation and supplemental state claims against defendant 1 Williams. (ECF No. 13.)

Defendants answered the FAC. (ECF No. 26.) The undersigned 2 subsequently issued a discovery
and scheduling order (“DSO”) and set a discovery cutoff of 3 November 17, 2025, and a
dispositive motion deadline of February 17, 2026. (ECF No. 28.) 4 PLAINTIFF’S REQUEST
FOR ISSUANCE OF SUBPOENAS DUCES TECUM 5 I. The Parties’ Filings 6 A. Plaintiff’s
Request 7 On October 16, 2025, plaintiff filed a request for subpoenas duces tecum pursuant to 8
Federal Rule of Civil Procedure 45.

(ECF No. 39.) Plaintiff explains that he seeks production of 9 documents from nonparty CHCF
and that he has sought the records from defendants in discovery 10 “to no avail.” (Id. at 1.) The
request summarizes documents sought from five specific 11 departments within CHCF across
2022 and 2023: 12 1. Accounts Payable Department: Requesting documents related to invoices
received and payments made to third parties and vendors, concerning the 13 Specialty Lightweight
Wheelchair ordered for [plaintiff] between 2022, 2023.

14 2. Administrative and Purchasing Personnel Department: Requesting documents related to the
issuing a purchase order to a vendor to acquire the Specialty 15 Lightweight Wheelchair for
[plaintiff], between 2022, 2023. 16 3. Medical and Therapeutic Staff Department: Requesting

documents related to the Medical and Therapeutic Staff that determined [plaintiff's] need for a 17 Specialty Lightweight Wheelchair, a detaieled [sic] prescription for the specialized or custom model, between 2022, 2023.

18 4. Therapists Department: Request documents related to the expert therapist that 19 evaluated [plaintiff] for the Specialized Lightweight (custom) Wheelchair and help justify the need for specific features and complete sections of the 20 Certificate of Medical Necessity, between 2022, 2023. 21 5. Chief Executive Officer or Warden: 22 Monthly Safety and Security Inspection Checklist of [plaintiff's] personal wheelchair, between 2022, 2023.

23 Monthly Logging-in Finding and Recommendations of [plaintiff's] 24 personal wheelchair, between 2022, 2023. 25 Monthly Safety and Security Repair Log of [plaintiff's] personal wheelchair, between 2022, 2023. 26 Any and all Wheelchair Repair Evaluation Forms of [plaintiff's] 27 personal wheelchair, between 2022, 2023. 28 (Id. at 1-3.) Plaintiff asks the court to grant his request and provide the number of subpoenas 1 required to serve the CHCF Departments.

(Id. at 4.) 2 B. Defendants' Response 3 After reviewing plaintiff's request, the undersigned ordered defendants to respond and 4 explain why the documents plaintiff seeks were not produced in discovery.¹ (ECF No. 40.)

As 5 both defendants are CHCF officials sued in their official and individual capacities (see ECF No. 6 13 at 5-6), it was not clear why plaintiff would have to subpoena CHCF for the information. 7 In their response, defendants address each of the requests above and confirm the described 8 documents are either not in their possession (Nos. 1, 2) or that they have already produced all 9 documents in their possession related to plaintiff's need for a new wheelchair (Request Nos. 3-5).

10 (ECF No. 41.) As for documents related to wheelchair payment and repair, defendants note they 11 lack access or control because defendant Peterson, the former CHCF ADA Coordinator, is now 12 retired, and defendant Williams is a surgeon and not involved in those processes. (Id. at 2-4.) 13 II. Legal Standard 14 Pursuant to Federal Rule of Civil Procedure 45(a)(2), a subpoena duces tecum may direct 15 a non-party to produce documents or other tangible objects for inspection and copying.

A 16 subpoena must be personally served or it is null and void. See Fed. R. Civ. P. 45(b); Prescott v. 17 Cnty. of Stanislaus, No. 1:10-cv-0592 JLT, 2012 WL 10617, at *3 (E.D. Cal. Jan. 3, 2012) 18 (explaining that "[a] majority of courts" interpret Rule 45(b)(1) to require personal service and 19 collecting cases).

The undersigned has granted plaintiff permission to proceed in forma pauperis 20 by order filed September 17, 2024. (ECF No. 7.) Therefore, plaintiff is entitled to obtain 21 personal service of an authorized subpoena duces tecum by the United States Marshal. 28 U.S.C. 22 § 1915(d). 23

Before requiring the U.S. Marshal to personally serve a plaintiff's proposed subpoena duces tecum, the undersigned must consider the following.

First, the scope of the subpoena is limited by the relevance standards set forth in Federal Rule of Civil Procedure 26(b)(1) ("[p]arties may obtain discovery regarding any nonprivileged matter that is relevant to any party's claim or 1 By the same order, the undersigned extended the discovery cut-off to February 16, 2026, and 28 the dispositive motion deadline to May 18, 2026.

1 defense"), and the considerations of burden and expense set forth in Rule 26(b)(2) and 45(c)(1). 2 The "Federal Rules of Civil Procedure were not intended to burden a non-party with a duty to 3 suffer excessive or unusual expenses in order to comply with a subpoena duces tecum." *Badman 4 v. Stark*, 139 F.R.D. 601, 605 (M.D. Pa. 1991) (requiring indigent plaintiff to demonstrate that he 5 had "made provision for the costs of such discovery") (citation omitted); see also *United States v. 6 Columbia Broadcasting System, Inc.*, 666 F.2d 364 (9th Cir.

1982) (court may award costs of 7 compliance with subpoena to non-party). Non-parties are "entitled to have the benefit of this 8 Court's vigilance" in considering these factors. *Badman*, 139 F.R.D. at 605. 9 In addition, the judges of this district require that a motion for issuance of a subpoena 10 duces tecum be supported by: (1) clear identification of the documents sought and from whom, 11 and (2) a showing that the records are obtainable only through the identified third party.

See e.g. 12 *Davis v. Ramen*, 2010 WL 1948560 at *1 (E.D. Cal. 2010); *Williams v. Adams*, No. 1:05-cv- 13 0124 AWI SMS PC, 2010 WL 148703, *1 (E.D. Cal. Jan. 13, 2010). 14 III. Analysis 15 Applying the above standards to plaintiff's request and the allegations in the FAC, the 16 undersigned finds that plaintiff has clearly identified the documents sought and established their 17 relevance to his claims.

Moreover, defendants' response confirms that the documents are not in 18 their possession or control and are uniquely available through current CHCF officials. 19 Accordingly, the court will direct the Clerk of Court to issue plaintiff five blank subpoena 20 duces tecum form, signed but otherwise blank, pursuant to Fed. R. Civ. P. 45. Plaintiff must 21 complete the subpoena and return it to the court to obtain personal service by the United States 22 Marshal.

In completing the subpoena, plaintiff must clearly identify the specific documents and 23 things that he seeks and identify a specific person at CHCF upon whom the subpoena should be 24 served. See Fed. R. Civ. P. 45(a)(1)(A)(iii) (every subpoena must identify the person to whom it 25 is directed). Plaintiff is further advised that even though he is proceeding in forma pauperis, 26 should the court order service of his subpoena, he may be required to pay any costs associated 27 with complying with the subpoena to avoid imposing an undue burden upon a non-party.

28 //// 1 CONCLUSION 2 Accordingly, IT IS HEREBY ORDERED that: 3 1. Plaintiff's request for issuance of subpoenas duces tecum (ECF No. 39) is 4 | GRANTED. 5 2. The Clerk is directed to send plaintiff, together with a copy of this order, five (5) 6 || subpoena duces tecum forms, signed but otherwise blank, pursuant to Fed. R. Civ. P. 45. 7 3. Within thirty (30) days of this order, plaintiff shall complete the subpoena forms 8 || and the attached Notice of Submission of Document form, and mail them both to the court.

9 4. If the subpoenas are properly completed, the court will direct their service by the 10 || United States Marshal. 11 5. Should plaintiff fail to timely return the subpoena duces tecum forms, or complete 12 | them in a manner inconsistent with that authorized by the court herein, no further action will be 13 | taken by the court on plaintiff's request for issuance of subpoenas duces tecum.

14 | DATED: November 24, 2025 poh 16) 17 SEAN C. RIORDAN UNITED STATES MAGISTRATE JUDGE 18 19 20 21 22 23 24 25 26 27 28 1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 BENJAMIN F. ELLIS, No. 2:23-cv-01962 WBS SCR P 12 Plaintiff, 13 v. NOTICE OF SUBMISSION OF DOCUMENTS 14 GABRIEL WILLIAMS, et al., 15 Defendants. 16 17 Plaintiff submits the following documents in compliance with the court's order filed: 18 Completed subpoena duces tecum forms (proposed) 19 20 DATED: 21 _____ 22 Benjamin F. Ellis, Plaintiff 23 24 25 26 27 28