

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hector Martin Prieto v. John Doe 1 and John Doe 2

No. 1:25-cv-00650-HBK (PC), United States District Court for the Eastern District of California (November 21, 2025)

SUMMARY

The United States District Court for the Eastern District of California amends its November 19, 2025 order in Hector Martin Prieto’s prisoner civil rights action. The court grants Plaintiff 90 days to identify the John Doe defendants against whom he asserts Eighth Amendment excessive force claims, declines to direct service of a defective subpoena seeking videos and medical records, and explains permissible methods for obtaining identifying information. The Clerk is directed to send Plaintiff subpoena form AO 88B and form USM-285.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Helena M. Barch-Kuchta
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	November 21, 2025
DOCKET	1:25-cv-00650-HBK (PC)
DISPOSITION	other
PROCEDURAL POSTURE	A state prisoner proceeding pro se and in forma pauperis sought to proceed against unidentified correctional employees on Eighth Amendment excessive-force claims and submitted a subpoena seeking videos and medical records to identify them. The court reviewed and rejected the subpoena as improper, amended its prior order, allowed additional time to identify the Doe defendants, and directed the Clerk to provide subpoena and service forms.
STANDARD OF REVIEW	The court reviewed the submitted subpoena for compliance with the Federal Rules of Civil Procedure, including relevance, scope, and burden limitations applicable to subpoenas and discovery.
PRECEDENTIAL VALUE	nonprecedential

TOPICS

service of process

discovery dispute

civil procedure

prisoners rights

section 1983

PRACTICE AREAS

civil procedure

civil rights

prisoner litigation

discovery and subpoenas

QUESTIONS PRESENTED

1. Whether Plaintiff should be permitted limited discovery or subpoena assistance to identify unknown defendants before service.
2. Whether the submitted subpoena duces tecum was sufficiently limited to relevant information needed to identify John Doe 1 and John Doe 2.
3. What deadline and procedural mechanism should govern Plaintiff's identification of the Doe defendants.

HOLDINGS

1. A court should permit a plaintiff to engage in limited discovery for the purpose of identifying defendants whose identities were unknown when the action was filed, unless the discovery would not identify the defendants or the complaint should otherwise be dismissed.
2. A subpoena to a nonparty must be limited to relevant information, and the court must consider the burden and expense imposed on the nonparty before directing service.
3. Plaintiff was granted 90 days from service of the order to provide information identifying John Doe 1 and John Doe 2 for service of process, with failure to do so potentially resulting in dismissal without prejudice.

KEY QUOTATIONS

"The Ninth Circuit has held that courts should permit plaintiffs to engage in limited discovery for the purpose of identifying defendants whose identity is unknown at the time of filing, unless discovery would fail to identify the defendants or that the complaint should otherwise be dismissed." (at 1)

"Subpoenas must be limited to relevant information, and a court will consider the burden and expense on the non-party in providing the requested information before issuing it." (at 2)

FACTUAL BACKGROUND

Plaintiff, a state prisoner at California Correctional Institution, alleged that on November 9, 2024, a correctional sergeant and correctional officer entered his cell and used excessive force during a medical emergency. The defendants were identified only as John Doe 1 and John Doe 2. Plaintiff's subpoena sought videos of the incident and his medical records, but it did not seek information limited to identifying the Doe defendants.

PROCEDURAL HISTORY

Plaintiff filed a Second Amended Complaint on August 21, 2025. After screening and voluntary dismissal of non-cognizable claims, the action proceeded on Eighth Amendment excessive-force claims against John Doe 1 and John Doe 2 in their individual capacities. Plaintiff submitted a completed subpoena and USM-285 form on

November 14, 2025; the court found the subpoena improper because it sought incident videos and medical records rather than information limited to identifying the Doe defendants. The court amended its November 19, 2025 order, granted Plaintiff 90 days to provide identifying information, warned that failure to do so could result in dismissal without prejudice, and directed the Clerk to send forms AO 88B and USM-285.

DISPOSITION

other

CASES CITED

- Wakefield v. Thompson, 177 F.3d 1160, 1163 (9th Cir. 1999)
- Gillespie v. Civiletti, 629 F.2d 637, 642 (9th Cir. 1980)
- Crowley v. Bannister, 734 F.3d 967, 978 (9th Cir. 2013)
- Austin v. Winett, 2008 WL 5213414, at *1 (E.D. Cal. Dec. 12, 2008)
- Badman v. Stark, 139 F.R.D. 601, 605 (M.D. Pa. 1991)
- Davis v. Ramen, 2010 WL 1948560, at *1 (E.D. Cal. May 11, 2010)
- Williams v. Adams, 2010 WL 148703, at *1 (E.D. Cal. Jan. 14, 2010)
- Johnson v. Spearman, 2020 WL 7405693, at *2 n.3 (E.D. Cal. Dec. 17, 2020)
- Reyes v. Flores, 2018 WL 3968245, at *10 (E.D. Cal. Aug. 16, 2019)
- Thompson v. Allison, No. 23-cv-05079-HSG, 2024 WL 4394759, at *3 (N.D. Cal. Oct. 3, 2024)

OPINION

Hector Martin Prieto v. John Doe 1 and John Doe 2

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 HECTOR MARTIN PRIETO, Case No. 1:25-cv-00650-HBK (PC) 12 Plaintiff, ORDER
AMENDEDEDING THE COURT’S

NOVEMBER 19, 2025 ORDER

13 v.

PLAINTIFF HAS 90 DAYS WITHIN WHICH

14 JOHN DOE 1 and JOHN DOE 2, TO IDENTIFY JOHN DOE 1 AND JOHN
DOE 2

15 Defendants.

ORDER DIRECTING CLERK OF COURT TO

16 SEND PLAINTIFF A COPY OF SUBPOENA

FORM AO 88B AND FORM USM-285

17 18 19 Hector Martin Prieto (“Plaintiff”) is a state prisoner proceeding pro se and in forma 20

pauperis in this action.

21 BACKGROUND

22 On August 21, 2025, Plaintiff filed a Second Amended Complaint. (Doc. No. 14, 23 “SAC”). Following screening and voluntary dismissal of non-cognizable claims, Plaintiff’s SAC 24 proceeds on his Eighth Amendment excessive force claims against Defendants John Doe 1 and 25 John Doe 2 (“Doe Defendants”) in their individual capacities. (See Doc. Nos. 16, 18, 20). 26 Plaintiff submitted a completed subpoena (AO 88B) and USM-285 on November 14, 27 2025. The Court having reviewed the subpoena finds it improper. The Court will address the 28 issue of Plaintiff’s need to identify Doe Defendants against whom Plaintiff’s Eighth Amendment 1 claims will proceed.

2 DISCUSSION

3 Defendants John Doe 1, identified as a correctional sergeant, and John Doe 2, identified as 4 a correctional officer, are both employed at California Correctional Institution (“CCI”). (Doc. 5 No. 14 at 4-5). Plaintiff alleges that on November 9, 2024, Doe Defendants entered his cell and 6 used force against him that was excessive given the medical emergency Plaintiff was suffering 7 from. (Doc. No. 14 at 7-11). 8 As previously noted, although Plaintiff states plausible claims against these unknown 9 individuals, the Court will not require service at this time. Plaintiff must identify Doe Defendants 10 with sufficient information for the United States Marshal to effectuate service of process. 1 The 11 Ninth Circuit has held that courts should permit plaintiffs to engage in limited discovery for the 12 purpose of identifying defendants whose identity is unknown at the time of filing, unless 13 discovery would fail to identify the defendants or that the complaint should otherwise be 14 dismissed. *Wakefield v. Thompson*, 177 F.3d 1160, 1163 (9th Cir. 1999) (citing *Gillespie v. 15 Civiletti*, 629 F.2d 637, 642 (9th Cir. 1980)). The Court will afford Plaintiff the ““opportunity 16 through discovery to identify the unknown (Doe) defendants.”” *Crowley v. Bannister*, 734 F.3d 17 967, 978 (9th Cir. 2013). 18 Pursuant to Rule 45 of the Federal Rules of Civil Procedure, Plaintiff is advised the 19 Court’s authorization of a subpoena duces tecum requested by an in forma pauperis plaintiff is 20 subject to limitations. Fed. R. Civ. P. 45(b). Because the Marshal’s Office is required to 21 personally serve a subpoena duces tecum, “serving a subpoena is not taken lightly by the court.” 22 *Austin v. Winett*, 2008 WL 5213414, *1 (E.D. Cal. Dec. 12, 2008); 28 U.S.C § 1915(d); Fed. R. 23 Civ. P. 26, 45. 24 Further, courts will not readily issue subpoenas to non-parties. *Badman v. Stark*, 139 25 1 Plaintiff is advised it is his obligation to identify any Doe defendant named in this action. See, e.g., 26 *Johnson v. Spearman*, 2020 WL 7405693, at *2, n.3 (E.D. Cal. Dec. 17, 2020) (“It is Plaintiff’s obligation to timely identify individuals named as defendants in a civil rights complaint”); *Reyes v. Flores*, 2018 WL 27 3968245, at *10 (E.D. Cal. Aug. 16, 2019) (“It is Plaintiff’s obligation to provide the information necessary to identify and locate a given defendant”). 28 1 F.R.D. 601, 605 (M.D. Pa. 1991) (“Federal Rules of Civil Procedure were not intended to burden 2 a non-party with a duty to suffer excessive or unusual expenses in order to comply with a 3 subpoena duces tecum.”).

Subpoenas must be limited to relevant information, and a court will consider the burden and expense on the non-party in providing the requested information before issuing it. Fed. R. Civ. P. 26, 45. A motion requesting the issuance of a subpoena duces tecum must be (1) limited in scope; (2) clearly identify the documents sought; and (3) supported by a showing that the records are obtainable only through the identified non-party. See, e.g., *Davis v. Ramen*, 2010 WL 1948560, at *1 (E.D. Cal. May 11, 2010); *Williams v. Adams*, 2010 WL 9 148703, at *1 (E.D. Cal. Jan. 14, 2010). The subpoena duces tecum Plaintiff submitted to the Court was not limited in scope to information relevant for the purpose of identifying the Doe Defendants. Instead, the subpoena sought to obtain videos of the alleged incident and Plaintiff's medical records. Because the subpoena did not seek to obtain the identity of the John Doe 1 and John Doe 2, the Court will not direct service of Plaintiff's subpoena on a third party. If Plaintiff wishes for the Court to serve a subpoena on California Department of Corrections and Rehabilitation to obtain document to assist in identifying the Doe Defendants, Plaintiff he must resubmit subpoena that seeks only the identifies of the Doe Defendants. Alternatively, Plaintiff may wish to seek the identities of Doe Defendants by alternate means. For example, Plaintiff might use a CDCR Form 22 to learn the identities of Doe Defendants who responded to his medical emergency on November 9, 2024. See, e.g., *Thompson v. Allison*, No. 23-cv-05079-HSG, 2024 WL 4394759, at *3 (N.D. Cal. Oct. 3, 2024) ("Plaintiff may be able to obtain the names of these [John Doe] individuals by accessing his classification records or using the CDCR Form 22"). Otherwise, Plaintiff may return and request the Court issue a subpoena to obtain the necessary information. Finally, the Court notes that if Plaintiff has learned the name or names of either Doe Defendant since filing his complaint, and/or does not require a subpoena to obtain these 2 Essentially Plaintiff is seeking discovery. The Court will issue a discovery order once the John Doe Defendants have been identified and served with Plaintiff's operative complaint. 1 individuals' identities, Plaintiff shall file a notice of substitution with the Court, asking to 2 | substitute that individual's actual name for "John Doe 1" or "John Doe 2." 3 Accordingly, it is hereby ORDERED: 4 1. Plaintiff shall have 90 days from the date of service of this Order to provide information 5 identifying John Doe | and John Doe 2 to the Court for service of process; 6 2. If Plaintiff fails to provide this information within the 90 day period, this action may be 7 dismissed without prejudice; and 8 3. The Clerk of Court is directed to send Plaintiff a copy of form AO 88B and a copy of 9 form USM-285. 10 4. The Court's November 19, 2025 Order (Doc. No. 20) is amended in accordance with 11 this Order to the extent the Court will not direct service of Plaintiff's defective subpoena 12 submitted to the Court. 13 Dated: _ November 20, 2025 law ZA. foareh Zackte

15 HELENA M. BARCH-KUCHTA

6 UNITED STATES MAGISTRATE JUDGE

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