(PC) Tilei v. Wan e	et al I	Doc. 104
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8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
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11	PUNAOFO TSUGITO TILEI,	1:06-cv-00776-OWW-GSA-PC
12	Plaintiff,	
13	VS.	ORDER DENYING PLAINTIFF'S
14	T. WAN, et al.,) MOTION FOR A PHYSICAL AND) MENTAL EXAMINATION
15		(Doc. 103.)
16	Defendants.	
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18	I. BACKGROUND	
19	Panaofo Tsugito Tilei ("plaintiff") is a state prisoner proceeding pro se with this civil rights	
20	action pursuant to 42 U.S.C. § 1983. On June 4, 2010, plaintiff filed a motion for the court to order a	
21	physical and mental examination of plaintiff under Rule 35 of the Federal Rules of Civil Procedure.	
22	(Doc. 103.)	
23	II. RULE 35 - PHYSICAL AND MENTAL EXAMINATIONS	
24	Under Rule 35, the court may order a party "whose mental or physical condition is in	
25	controversy" to submit to a physical or mental examination. Fed.R.Civ.P 35(a)(1). Plaintiff requests	
26	a physical and mental examination, alleging that he is suffering from a myriad of serious health problems	
27	caused by prison officials where he is incarcerated. Plaintiff submits a copy of a civil complaint filed	
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by plaintiff in case 1:10-cv-00069-LJO-SKO-PC on January 13, 2010, in which he claims defendants violated his rights to adequate medical care. Plaintiff also refers the court to the motion for extension of time he filed in the present action on June 3, 2010, in which he complains of multiple health problems. The present action proceeds only on plaintiff's claims for retaliation and for violation of his rights to due process, and plaintiff's mental or physical condition is not in controversy in this action. For this reason, plaintiff's motion shall be denied. III. **CONCLUSION** Based on the foregoing, IT IS HEREBY ORDERED that plaintiff's motion for a physical and mental examination under Rule 35 is DENIED. IT IS SO ORDERED. **Dated:** July 12, 2010

¹All other claims were dismissed from this action on July 8, 2008. (Doc. 26.)