

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

RIBOBERTO POLONCO,

Plaintiff,

v.

M.D. BITER,

Defendant.

CASE NO. 1:12-cv-00984-SAB (PC)

ORDER DENYING PLAINTIFF’S MOTION  
FOR EXAMINATION AND RECOVERY OF  
MEDICAL RECORDS AND MOTION FOR  
SERVICE

(ECF No. 6, 7)

Plaintiff Rigoberto Polonco is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. This action was filed on June 19, 2012. On July 9, 2012, Plaintiff filed a motion for discovery pursuant to Federal Rule of Civil Procedure 35. (ECF No. 6.) On August 8, 2012, Plaintiff filed a motion for service of the complaint. (ECF No. 7.) Currently, Plaintiff’s complaint is pending screening.

Because Plaintiff is proceeding in forma pauperis, he is entitled to have process served on his behalf by the United States Marshal. 28 U.S.C. § 1915(d); Fed. R. Civ. P. 4(c)(3). However, as set forth in the Court’s First Informational Order, the Marshal will be directed to initiate service of process only after Plaintiff’s complaint has been screened and found to state cognizable claims for relief. 28 U.S.C. § 1915A; First Informational Order, ¶12, ECF No. 3. Therefore, Plaintiff’s motion for service shall be denied as premature.

Plaintiff has filed a motion seeking a medical examination, medical records from his prior examination on May 5, 2011, police reports, prison rules and incident reports. Once the defendants have filed an answer, a discovery and scheduling order will be issued opening discovery in this

1 action. (ECF No. 3 at 8.) No discovery may be conducted, without permission from the Court, until  
2 an answer is filed and the Court issues an order opening discovery. In this instance, Plaintiff has  
3 filed his motion prior to the opening of discovery in this action. Plaintiff's motion is denied as  
4 premature.

5 IT IS HEREBY ORDERED that Plaintiff's motion for an examination and recovery of  
6 medical records, filed July 9, 2012, and motion for service, filed August 6, 2012, are DENIED.

7 IT IS SO ORDERED.

8 **Dated: February 21, 2013**

  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
UNITED STATES MAGISTRATE JUDGE