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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBERTO HERRERA,
Plaintiff,
v.
ROUCH,
Defendant.

CASE NO. 1:13-cv-00289-LJO-MJS
ORDER DENYING MOTION FOR
MEDICAL EXAMINATION
(ECF NO. 28)

Plaintiff Roberto Herrera is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. (ECF No. 1.) The operative pleading is Plaintiff’s Second Amended Complaint, filed August 28, 2013 (ECF No. 17), against Defendant Rouch for deliberate indifference to Plaintiff’s serious medical need in violation of the Eighth Amendment.

On December 6, 2013, Plaintiff filed a motion seeking a medical examination pursuant to Federal Rule of Civil Procedure 35. Rule 35 provides in relevant part:

The court where the action is pending may order a party whose mental or physical condition . . . is in controversy to submit to a physical or mental examination by a suitably licensed or certified examiner.

Here, Plaintiff seeks an order for his own examination. Rule 35 allows a movant to request examination of an opposing party whose mental or physical condition is in

1 controversy, not for a party to request his own examination to support his claims. Berg
2 v. Prison Health Services, 376 F. App'x. 723, 724 (9th Cir. 2010), cert. denied, 131 S.Ct.
3 323 (Oct. 4, 2010) ("Rule 35 does not allow for a physical examination of oneself").

4 Accordingly, Plaintiff's motion seeking a medical examination (ECF No. 28) is
5 DENIED, with prejudice.

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8 IT IS SO ORDERED.

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Dated: December 28, 2013

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE

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