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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

AL GENE FISHER,

Plaintiff,

vs.

T. FELKER, *et al.*,

Defendants.

Case No. 2:07-cv-02271-PMP-GWF

ORDER

This matter is before the Court on Plaintiff's Request for an Examination by an Outside Doctor (#47), filed June 18, 2010.

Plaintiff Al Fisher moves under Fed.R.Civ.P. 35 for the Court to issue an order allowing him to be examined by a doctor that is not associated with the California Department of Corrections. (#47). Fed.R.Civ.P. 35(a) allows the court to order the physical or mental examination of a party whose condition is in controversy. Rule 35 is intended to permit a party to seek an order requiring an opposing party whose condition is in controversy to submit to an examination. Good cause for an examination must be shown, and the rule does not authorize Plaintiff to seek his own free examination to obtain evidence to prosecute his case. *See Rider v. Yates*, 2010 WL 503061 (E.D.Cal., Feb. 05, 2010). If Plaintiff has the funds available to compensate a doctor for examining him, he may arrange for the doctor to examine him at the prison. However, even though Plaintiff is proceeding *in forma pauperis*, he is not entitled under Rule 35 to a free examination by an outside specialist. *See Tedder v. Odel*, 890 F.2d 210, 211 (9th Cir. 1989) (holding that the expenditure of public funds on behalf of an indigent litigant is proper only when authorized by Congress).

Accordingly,


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IT IS HEREBY ORDERED that Plaintiff's Request for an Examination by an Outside Doctor (#47) is **granted in part** and **denied in part**, as follows:

1. If Plaintiff is able to arrange for a doctor to examine him at his own expense within the next 30 days, the Court will, to the extent necessary, direct the prison to schedule a place and time for the examination; and
2. Plaintiff's request that the Court appoint an independent doctor to examine him at the government's expense is **denied**.

DATED this 11th day of August, 2010.



GEORGE FOLEY, JR.
UNITED STATES MAGISTRATE JUDGE