

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00667-MSK-KLM

SIRRLOVE WILLIAMS,

Plaintiff,

v.

MAJOR DIGGINS,
MAJOR CONNORS,
SGT. DAUGHTRIE.

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Plaintiff's **Motion for Examination by an Outside Doctor** [Docket No. 72; Filed April 20, 2009] (the "Motion").

IT IS HEREBY **ORDERED** that the Motion is **DENIED**. The Motion is not signed as required by D.C. Colo. L. Civ. R. 10.1(K) & 11.1. Further, the Motion does not contain a certificate that it has been served on the opposing parties as required by Fed. R. Civ. P. 5(d). Either defect justifies denial of the Motion. In addition, a review of the substance of the Motion reveals that the Motion is deficient on its face. Plaintiff seeks a medical examination of himself pursuant to Fed. R. Civ. P. 35. Rule 35 does not authorize a Court to order that the moving party be examined at Court expense. Rather, Rule 35 is the vehicle through which a moving party can seek the examination of an opposing party who has put his physical or mental health at issue. To the extent that Plaintiff wishes to obtain a medical report for purposes of this litigation, it is his responsibility to do so at his expense.

The Court notes that Plaintiff has recently filed pleadings docketed as declarations and notices [Docket Nos. 67, 69, 71 & 74]. The Federal and Local Rules of Civil Procedure require that parties to civil litigation file *motions* when they seek relief from the Court. Fed. Rule Civ. P. 7(b)(1) ("An application to the court for an order shall be by motion"); D.C. Colo. L. Civ. R. 7.1(C) & 77.2. As explained to Plaintiff at the Scheduling Conference held on April 7, 2009 [Docket No. 62], and as set forth in the letter to *pro se* litigants, the Court does not consider declarations, letters, notices or other pleadings not docketed as motions or attached to motions.

Dated: April 21, 2009