

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
TERRE HAUTE DIVISION**

<b>RALPH THOMAS,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>2:11-cv-187-JMS-WGH</b>
	)	
<b>W. WILSON, Chief Medical Director,</b>	)	
	)	
<b>Defendant.</b>	)	

**ORDER DENYING PLAINTIFF'S  
MOTION TO EXAMINE PERSON UNDER FRCP 35**

**This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge, on Plaintiff's Motion to Examine Person Under FRCP 35 filed March 13, 2013. (Docket No. 77). In this motion, Mr. Thomas asks the court to order a physical examination of the Plaintiff himself.**

**Mr. Thomas's motion seeks the examination because he is unsatisfied with the medical treatment he is receiving at the institution. He does not explicitly request that the examination occur in order to produce evidence to be used at the trial of this issue. The Rule 35 provision for physical and mental examinations is placed within the Rules of Civil Procedure to allow parties to obtain reports from examiners on issues before the court. It is not a vehicle under which Mr. Thomas can seek different treatment for his medical conditions than that which he is receiving through the medical staff at his institution.**

**Therefore, to the extent the request seeks examination and treatment by a physician as a remedy, this motion is DENIED.**

**To the extent Mr. Thomas seeks the examination for use at trial, it must be noted that this is a case in which he is seeking damages for violations of his constitutional rights and is a civil matter. The court is unaware of any authority that would allow the court to incur additional medical costs for such an examination solely for the purpose of allowing a plaintiff in a civil action to better present his claims for damages. To the extent that Mr. Thomas wishes to seek a further examination for use at trial, he must be prepared to establish that he has the appropriate financial resources to pay for such an examination. Until that is established, his request for examination is DENIED.**

SO ORDERED.

Dated: **April 17, 2013**



William G. Hussmann, Jr.  
United States Magistrate Judge  
Southern District of Indiana

Served electronically on ECF-registered counsel of record.

Served via first-class U.S. Mail:

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