UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MICHAEL WAYNE STEED,

Plaintiff,

v.

MARY SCOTT et al.,

Defendants.

CASE NO. C12-6058 RBL-JRC

ORDER TO SUBMIT ADDITIONAL BRIEFING

The District Court has referred this 42 U.S.C. §1983 civil rights action to the undersigned Magistrate Judge. The District Court's authority for the referral is found in 28 U.S.C. §§ 636(b)(1)(A) and (B) and Local Magistrate Judges Rules MJR 1, MJR 3, and MJR 4.

Plaintiff has filed a motion asking that the Court issue an order allowing for plaintiff to be examined by a doctor who does not work for the Pierce County Jail (ECF No. 10). Plaintiff does not identify who he wants to conduct the examination nor does plaintiff provide the Court with certain critical information, such as the time, place, manner, conditions, and scope of the examination, as well as the person or persons who plaintiff wants to perform it. *See*, Fed. R. Civ. P. 35(2)(B).

In a supplemental response, plaintiff states that he will "gladly take financial responsibility" for the examination (ECF No. 17, page 4). The term "take financial responsibility" could be interpreted to mean that he is willing to incur a debt that plaintiff cannot pay. Plaintiff does not place any limit of the amount of money he is willing to spend or inform the Court how he intends to pay. In supplemental documents, plaintiff mentioned both x-rays and an MRI as possibly being part of the examination he is seeking (ECF No. 16). An examination that includes these tests could well run into the thousands of dollars. The Court will need to know how plaintiff intends to pay for any proposed examination.

Defendants object to the motion and argue that Fed. R. Civ. P. 35 does not give the Court the authority to appoint an expert for a party wishing to examine himself (ECF No. 11). Defendants do not address the last sentence in Fed. R. Civ. P. 35 which gives the Court the authority to order a party to produce a person who is in custody for examination. *See*, Fed. R. Civ. P. 35.

Defendants need to inform the Court if they are willing to allow an outside doctor into the Jail and if they will provide a proper area for the examination. Defendants also need to inform the Court if they are willing to transport plaintiff to a doctor's office, and provide security, if the doctor cannot be in the Jail or a test like an MRI needs to be done outside of the Jail.

The additional briefing will be due on or before March 1, 2013. Plaintiff's motion for an outside examination, (ECF No. 10), is re-noted for March 7, 2013.

Dated this 8th day of February, 2013.

J. Richard Creatura
United States Magistrate Judge