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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Garrett J. Deetz,

Plaintiff,

v.

Arizona Department of Corrections, et al.,

Defendants.

No. CV-13-489-PHX-DJH (ESW)

ORDER

This matter is before the Court on Plaintiff's Motion for Leave to Amend ("Motion to Amend") (Doc. 39) and the Report and Recommendation ("R&R") (Doc. 54) issued by United States Magistrate Judge Eileen S. Willett. The Magistrate Judge determined in the R&R that granting Plaintiff leave to amend would be futile because Plaintiff's proposed Second Amended Complaint (Doc. 39-1) fails to sufficiently state an Eighth Amendment claim for deliberate indifference to Plaintiff's serious medical needs. (Doc. 54 at 7). Accordingly, the Magistrate Judge recommends the Motion to Amend be denied. (*Id.*).

Plaintiff filed an Objection to the R&R ("Objection") (Doc. 56) on May 8, 2015. Defendants have not filed a response to Plaintiff's Objection.

I. Background

The Magistrate Judge provided the factual and procedural background in the R&R. (Doc. 54 at 2). The Court need not repeat that information here. Moreover, Plaintiff has not objected to any of the information in the background section. *See Thomas v. Arn*, 474

1 U.S. 140, 149 (1989) (The relevant provision of the Federal Magistrates Act, 28 U.S.C. §
2 636(b)(1)(C), “does not on its face require any review at all . . . of any issue that is not the
3 subject of an objection.”).

4 **II. Analysis**

5 **A. Standard of Review**

6 The district judge "shall make a de novo determination of those portions of the
7 report or specified proposed findings or recommendations to which objection is made."
8 28 U.S.C. § 636(b)(1)(C); *see also* Fed.R.Civ.P. 72(b)(3) (“The district judge must
9 determine de novo any part of the magistrate judge’s disposition that has been properly
10 objected to.”); *U.S. v. Reyna-Tapia*, 328 F.3d 1114, 1121 (same). The judge "may
11 accept, reject, or modify, in whole or in part, the findings or recommendations made by
12 the magistrate judge.” 28 U.S.C. § 636(b)(1)(C); Fed.R.Civ.P. 72(b)(3).

13 **B. Procedural Matter**

14 The docket entry for the Motion to Amend reflects that it was not filed in
15 compliance with Rule 15.1 of the Local Rules of Civil Procedure ("LRCiv") and that
16 Plaintiff's counsel was notified of that deficiency the day after it was filed. (Doc. 39).
17 Nothing on the docket, however, indicates this deficiency was ever addressed by
18 Plaintiff.

19 LRCiv 15.1(a) provides in pertinent part that "[a] party who moves for leave to
20 amend a pleading must attach a copy of the proposed amended pleading as an exhibit to
21 the motion, which must indicate in what respect it differs from the pleading which it
22 amends, by bracketing or striking through the text to be deleted and underlining the text
23 to be added." A district court’s local rules are not petty requirements, but have “the force
24 of law.” *Hollingsworth v. Perry*, 558 U.S. 183, 191 (2010) (citation omitted). The
25 District Court of Arizona routinely denies amendment motions for failure to comply with
26 LRCiv 15.1(a). *See e.g., Bivins v. Ryan*, 2013 WL 321847, at *4 (D. Ariz. Jan. 28, 2013);
27 *J-Hanna v. Tucson Dodge Inc.*, 2012 WL 1957832, at *1 (D. Ariz. May 31, 2012);
28 *Huminski v. Heretia*, 2011 WL 2910536, at *1 (D. Ariz. July 18, 2011).

1 Here, Plaintiff attached a copy of the proposed Second Amended Complaint to the
2 Motion to Amend but failed to indicate in what respect it differs from the First Amended
3 Complaint. As far as the Court can tell, the Second Amended Complaint differs
4 substantially from the First Amended Complaint, and it is Plaintiff's obligation to
5 demonstrate how by complying with LRCiv 15.1(a). Because the Motion to Amend fails
6 to comply with the Local Rules, it will be denied. Although the Court is denying the
7 Motion to Amend on different grounds than the R&R recommends, Plaintiff, should he
8 choose to again seek leave to amend, would be wise to address the deficiencies identified
9 in the R&R.

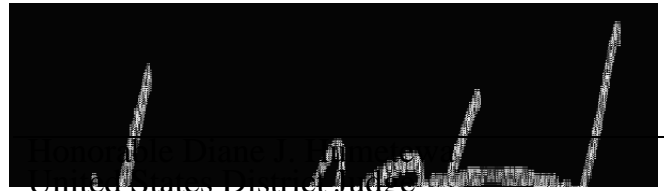
10 Based on the foregoing,

11 **IT IS ORDERED** that the R&R (Doc. 54) recommending denial of the Motion to
12 Amend is **accepted**, but not on the grounds recommended.

13 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Leave to Amend (Doc.
14 39) is **DENIED**.

15 Dated this 1st day of July, 2015.

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