IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Albert L Brinkman,

Plaintiff,

v.

Charles L Ryan, et al.,

Defendants.

No. CV-15-00827-PHX-ROS (BSB)

ORDER

Plaintiff commenced this civil rights action on May 6, 2015. (Doc. 1.) Plaintiff subsequently amended the complaint three times. (Docs. 14, 23, 33.) In the Court's screening of the Third Amended Complaint, the Court found Count Eight stated an Eighth Amendment excessive force claim and Count Nine stated a state-law negligence claim; the Court ordered Defendant Trujillo to answer Counts Eight and Nine; and the Court dismissed the remaining counts and Defendants without prejudice. (Doc. 34.) On June 17, 2016, Plaintiff filed a motion to amend the complaint for a fourth time. (Doc. 37.) On June 22, 2016, Magistrate Judge Bridget S. Bade issued a Report and Recommendation ("R&R") recommending the Court deny Plaintiff's motion to file a fourth amended complaint. (Doc. 39.) Plaintiff objected to the R&R on June 29, 2016. (Doc. 40.)

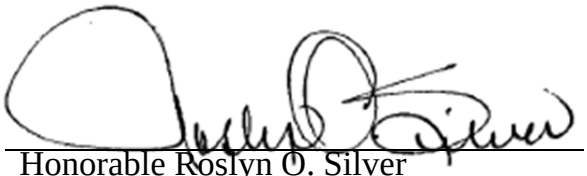
A district judge "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b). Where any party has filed timely objections to the R&R, the district court's review of the part objected to

must be *de novo*. *Id.* After reviewing the record, the R&R, and the Plaintiff's objections, the Court finds Plaintiff's proposed fourth amended complaint is similar to the Third Amended Complaint and does not cure the deficiencies identified in the May 31, 2016 screening order. (*See* Doc. 34.) Thus, the Court will adopt the R&R and deny Plaintiff's Motion to Amend/Correct Complaint.[1]

Accordingly,

IT IS ORDERED the Report and Recommendation (Doc. 39) is **ADOPTED** and Plaintiff's Motion to Amend/Correct Complaint (Doc. 37) is **DENIED**.

Dated this 23rd day of November, 2016.



Honorable Roslyn O. Silver
Senior United States District Judge

[1] The Third Amended Complaint (Doc. 33) remains the operative complaint in this matter. The only remaining claims from the Third Amended Complaint are Counts Eight and Nine against Defendant Trujillo. (Doc. 34.)