

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JAMES CHARLES FUDGE,

Plaintiff,

v.

BRET BENNETT et al.,

Defendants.

No. 2:19-cv-01102-SB

OPINION AND ORDER

MOSMAN, J.,

On September 9, 2022, Magistrate Judge Stacie J. Beckerman issued her Amended Findings and Recommendation (“F&R”) [ECF 167], recommending that Defendants’ Motion for Partial Summary Judgment [ECF 107] be granted in part and denied in part. Plaintiff filed his objections [ECF 157], and Defendants responded [ECF 162].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of


the magistrate judge as to those portions of the F&R to which no objections are addressed. See *Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

CONCLUSION

Upon review, I agree with Judge Beckerman's recommendation, and I ADOPT the Amended F&R [ECF 167] as my own opinion. Defendants' Motion for Partial Summary Judgment [ECF 107] is GRANTED IN PART and DENIED IN PART. I GRANT Defendants' motion and enter summary judgment with respect to the following defendants on Plaintiff's claims against them: Ofc. Armstrong, Ofc. Neal, Ofc. Hansen, Ofc. Moothart, Ofc. Carbajal, Sgt. Huston, Ofc. Ford, Ofc. Scott, Ofc. Lettunich, and Lt. King. I also GRANT Defendants' motion and enter summary judgment for Sgt. Olive on Plaintiff's excessive force claim and Plaintiff's deliberate indifference claim related to the alleged deprivation of a decontamination shower. I DENY Defendants' motion for partial summary judgment with respect to Plaintiff's deliberate indifference claim against Sgt. Olive related to the alleged deprivation of meals while Plaintiff was housed in the Disciplinary Segregation Unit ("DSU").

IT IS SO ORDERED.

DATED this 12TH day of September, 2022.


MICHAEL W. MOSMAN
Senior United States District Judge