

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JOSEPH HOLLAND,

Plaintiff,

Case No. C17-0170RSM

V.

CITY OF SEATTLE, *et al.*,

## Defendants.

ORDER DECLINING TO ADOPT  
REPORT AND RECOMMENDATION  
AND REFERRING MATTER TO  
JUDGE THEILER

On May 16, 2017, the Honorable Mary Alice Theiler, United States Magistrate Judge, issued a Report and Recommendation (“R&R”) recommending that the Court dismiss Plaintiff’s Complaint. As a basis for that recommendation, Judge Theiler explained that she had previously issued an Order directing Plaintiff to either file an amended complaint consistent with another prior Order declining to serve his original complaint, or to advise the Court that he wished to dismiss this action, not later than May 1, 2017. Dkt. #10 at 2. Plaintiff was also advised that if he failed to communicate his intention to the Court in a timely fashion, the Court would dismiss this action for failure to prosecute. *Id.* As of the date of her R&R, Judge Theiler noted that the Court had received no further communication from Plaintiff, and she therefore recommended dismissal for failure to prosecute. *Id.*

Since the time that Judge Theiler issued her R&R, Plaintiff has filed an Amended Complaint and a Motion to Appoint Counsel. Dkts. #11 and #12. Although neither of these filings

1 are timely responses to Judge Theiler's prior Orders, the Court recognizes its interest in resolving  
2 matters on the merits. Accordingly, the Court hereby finds and ORDERS:

3 (1) The Court DECLINES TO ADOPT the Report and Recommendation;

4 (2) This entire action, including the pending motion to appoint counsel, is RE-  
5 REFERRED to Judge Theiler for resolution. In addition to performing the normal course of review  
6 of pending motions, Judge Theiler shall review the Amended Complaint for compliance with her  
7 prior Orders, and shall make any necessary Orders or Recommendations after such review; and  
8 (3) The Clerk is directed to send copies of this Order to Plaintiff and to the Honorable  
9 Mary Alice Theiler.

10 DATED this 9th day of June, 2017.

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13 RICARDO S. MARTINEZ  
14 CHIEF UNITED STATES DISTRICT JUDGE  
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