

1 THE HONORABLE JOHN C. COUGHENOUR

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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 DAVID A. MOORE,

10 Plaintiff,

11 v.

12 KING COUNTY JAIL, *et al.*,

13 Defendants.

CASE NO. C17-0347-JCC

ORDER ADOPTING REPORT AND
RECOMMENDATION

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15 This matter comes before the Court on Plaintiff David A. Moore's objections (Dkt. No.
16 18) to the report and recommendation (Dkt. No. 17) issued by the Honorable Brian A. Tsuchida,
17 United States Magistrate Judge. Having reviewed Judge Tsuchida's report and recommendation,
18 Plaintiff's objection, and the relevant record, the Court **OVERRULES** Plaintiff's objection and
19 **ADOPTS** the report and recommendation for the reasons set forth herein.

20 Plaintiff, acting *pro se*, filed a 42 U.S.C. § 1983 claim against various King County
21 entities. (Dkt. No. 11.) Plaintiff alleges he was attacked by Seattle Police, denied medical care,
22 and mistreated in prison. (*See* Dkt. No. 11-1.) Judge Tsuchida declined service of Plaintiff's
23 complaint and granted leave to amend. (Dkt. No. 12 at 1.) Plaintiff filed an unsigned, amended
24 complaint, adding King County as a defendant and alleging similar facts. (Dkt. No. 15 at 3-5.)
25 Judge Tsuchida now recommends the complaint be dismissed without prejudice for failure to
26 state a claim. (Dkt. No. 17 at 4.) Plaintiff filed an objection to the report and recommendation.

ORDER ADOPTING REPORT AND
RECOMMENDATION
PAGE - 1

1 (Dkt. No. 18.)

2 A district judge reviews objections to a magistrate judge's report and recommendation *de*
3 *novo*. Fed. R. Civ. P. 72(b)(3). The district judge may accept, reject, or modify the recommended
4 disposition; receive further evidence; or return the matter to the magistrate judge with
5 instructions. *Id.*

6 Judge Tsuchida found Plaintiff failed to state a claim under § 1983. (Dkt. No. 17 at 4.)
7 Judge Tsuchida noted: (1) Plaintiff raised a § 1983 claim against parties who are immune from
8 suit; (2) when Defendants were proper, Plaintiff failed to allege unconstitutional policies; and
9 (3) Plaintiff's claims are barred by statute of limitations. (Dkt. No. 12 at 3–5.) This Court agrees
10 with Judge Tsuchida's analysis and conclusions and ADOPTS the report and recommendation.

11 In his objection, Plaintiff seems to argue the merits of his § 1983 claim by alleging
12 current violations of Title II of the Americans with Disabilities Act (ADA). (Dkt. No. 18 at 1.)
13 This claim was not raised in his original complaint and does not directly address any of Judge
14 Tsuchida's recommendations. Raising a new claim in an objection is not proper procedural form
15 and will not be considered by this Court. *See* Fed. R. Civ. P. 15(a)(2); Fed. R. Civ. P. 72(b)(1).
16 Plaintiff's objection is OVERRULED and the Court ADOPTS Judge Tsuchida's
17 recommendation.

18 For the reasons explained herein, the Court OVERRULES Plaintiff's objection (Dkt. No.
19 18) and ADOPTS the report and recommendation (Dkt. No. 17.) The complaint (Dkt. No. 11) is
20 DISMISSED without prejudice. The Clerk is DIRECTED to close this case.

21 DATED this 6th day of July 2017.

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John C. Coughenour
UNITED STATES DISTRICT JUDGE