UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

REMINGTON DONO LeBOE,

Plaintiff,

v.

KING COUNTY SHERIFF, et al.,

Defendants.

No. 2:21-cv-1110-BJR-SKV

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE WITHOUT PREJUDICE

This matter comes before the Court on a Report and Recommendation issued on October 14, 2021, by the Honorable S. Kate Vaughan, U.S. Magistrate Judge. Dkt. No. 15. Magistrate Judge Vaughan recommends: (1) that Plaintiff's complaint be dismissed without prejudice for failure to identify a viable claim for relief; (2) that dismissal of Plaintiff's complaint be counted as a "strike" under 28 U.S.C. § 1915(g); and (3) that Plaintiff's motion to appoint counsel (Dkt. No. 11) and motion for legal supplies and legal access (Dkt. No. 13) be denied.

Plaintiff has not filed objections to the Report and Recommendation. However, Plaintiff has contacted the Court several times regarding this case since the Report and Recommendation was issued. On October 15, 2021, the Court received a request from Plaintiff for legal supplies and "original documents and transcripts." Dkt. No. 16. On November 1, 2021, the Court received a written request from Plaintiff to change his address to Western State Hospital (WSH)[1]

[1] On November 3, 2021, Plaintiff also verbally informed the Court by telephone of his change of address to WSH.

and to stay consideration of this case (as well as several other cases that Plaintiff has pending in this Court) for 45 days. Dkt. No. 17. On December 13, 2021, Plaintiff contacted the Court "to relay he has not received mail regarding his case" and indicated that the law library has been closed due to COVID and that he did not have access to legal materials. The same day, the Clerk confirmed Plaintiff's address at WSH and mailed Plaintiff a copy of his complaint, the Report and Recommendation, and the docket report for this matter.

As a result, the record indicates that the Report and Recommendation was mailed to Plaintiff at his new address of record at WSH on December 13, 2021, and Plaintiff has had sufficient time to file objections to the Report and Recommendation. *See* Local Civil Rule 72(b) (providing that objections to a magistrate judge's recommended disposition must be filed within 14 days of being served unless the Court enlarges the time period); Dkt. No. 15 at 4 (providing that objections to the Report and Recommendation in this case were to be filed within 21 days of the date on which the Report and Recommendation was originally signed on October 14, 2021).

Having reviewed the Report and Recommendation and the record in this case, the Court finds and ORDERS as follows:

(1) The Court approves and adopts the Report and Recommendation (Dkt. No. 15).

(2) Plaintiff's complaint (Dkt. No. 6) and this action are DISMISSED without prejudice for failure to state a viable claim for relief.

(3) This dismissal shall count as a strike under 28 U.S.C. § 1915(g).

(4) Plaintiff's motion for appointment of counsel (Dkt. No. 11) is DENIED. In considering a request to appoint counsel, the Court evaluates Plaintiff's likelihood of success on the merits, as well as his ability to articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn v. Escalderon*, 789 F.2d 1328,

1331 (9th Cir. 1986). Here, Plaintiff has not shown a strong ability to articulate his claims as a *pro se* litigant. However, Plaintiff also has not shown a likelihood of success on the merits of his claims; instead, as the Report and Recommendation notes, Plaintiff improperly seeks this Court's intervention in Plaintiff's state court criminal proceedings. As a result, the Court finds that appointment of counsel is not warranted.

(5) Plaintiff's remaining motions (Dkt. Nos. 13, 16, and 17) are DENIED as moot.

(6) The Clerk is directed to send a copy of this Order to Plaintiff and to the Honorable S. Kate Vaughan.

DATED January 7, 2022.

Barbara Jacobs Rothstein
U.S. District Court Judge