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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

ROBIN BLAKE COMBS, SR.,  
  
Plaintiff,  
  
v.  
  
JOSEPH D. LEHMAN, CATHERINE  
KNOX, DOUGLAS WADDINGTON,  
PATRICK FARWELL, LUCIANO L.  
FIGUEROA, MARC F. STERN, DEAN  
A. MASON, CLINT MAY, ANITA  
TRAVIS, MUHAMMAD AIJAZ  
KHURSHID, DAVE THOMPSON,  
DARRYL DENISON, MATTHEW  
GAMBONE, SUE MCMINN, JUDY  
CHELOTTI, KEVEN SHANAHAN,  
ELDON LEINWEBER, JOHN DOE,  
JANET BLACK, and SUE GREILING  
  
Defendants.

No. C08-5063 RJB/KLS

**ORDER ADOPTING REPORT AND  
RECOMMENDATION, GRANTING  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT, AND  
DISMISSING CASE**

The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L. Strombom (Dkt. 157), objections to the Report and Recommendation (Dkt. 161), defendants' response to the objections (Dkt. 162), plaintiff's reply (Dkt. 163), and the remaining record, does hereby find and **ORDER:**

- (1) In his objections, plaintiff contends that he exhausted his administrative remedies, and that defendants were deliberately indifferent to his serious medical needs, in violation of the Eighth Amendment. Dkt. 161. In his reply, plaintiff contends that the

1 treatment provided him did not alleviate his pain, and, on more than one occasion,  
2 medical providers did not even see him. Dkt. 163.

- 3 (2) The court concurs with the conclusion of the magistrate judge that plaintiff did not  
4 properly exhaust his administrative remedies as to all of his claims. Plaintiff did not  
5 exhaust his administrative remedies with regard to his claim that the mattress on  
6 which he is/was sleeping is too hard, and he did not exhaust his administrative  
7 remedies with regard to most of his claims about the adequacy of his medical care.
- 8 (3) Even if plaintiff had exhausted his administrative remedies as to all of the claims he  
9 made about the adequacy of his medical care, defendants have met their burden to  
10 establish that there are no genuine issues of material fact precluding summary  
11 judgment. Plaintiff has demonstrated that he has a chronic pain problem related to his  
12 neck, shoulders and upper back. He has been provided ongoing treatment for his pain  
13 by several prison medical providers. Plaintiff disagrees with some of the treatment  
14 decisions made by prison medical staff. Such disagreement does not constitute  
15 deliberate indifference to his serious medical needs. Moreover, because plaintiff has  
16 not shown that his constitutional rights have been violated, defendants are entitled to  
17 qualified immunity.
- 18 (4) Accordingly, the Court **ADOPTS** the Report and Recommendation. Defendants'  
19 motion for summary judgment (Dkt. 142) is **GRANTED**. Plaintiff's claim that  
20 defendants have provided him with a mattress that is too hard is **DISMISSED**  
21 **WITHOUT PREJUDICE**. The remaining claims are **DISMISSED WITH**  
22 **PREJUDICE**.
- 23 (5) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendants  
24 and to the Hon. Karen L. Strombom.

25 **DATED** this 23rd day of December, 2010.

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ROBERT J. BRYAN  
United States District Judge

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