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5 UNITED STATES DISTRICT COURT
6 WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 JAMES O'NEIL WIGGIN,

9 Plaintiff,

10 v.

11 WILLIAM ROLLINS, et al.,

12 Defendants.

CASE NO. C13-5057 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 161), and
15 Plaintiff James O’Neil Wiggin’s (“Wiggin”) objections to the R&R (Dkt. 164).

16 On December 16, 2013, Judge Strombom issued the R&R recommending that the
17 Court grant Defendants’ motion for summary judgment on Wiggin’s claims for violations
18 of the Eight Amendment based on allegations of inadequate medical care and inadequate
19 conditions of confinement. Dkt. 161. On December 26, 2013, Wiggin filed objections.
20 Dkt. 164. On January 6, 2014, Defendants responded. Dkt. 165.

21 The district judge must determine de novo any part of the magistrate judge's
22 disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72 (b)(3).

3 In this case, Wiggin fails to meet the high burden to state a constitutional claim for
4 relief. After review of the file, it is clear that (1) Wiggin has received extensive medical
5 treatment and numerous consultations and (2) Wiggin merely disagrees with the medical
6 recommendations. Such disagreement, however, is insufficient to state a valid
7 constitutional claim for cruel and unusual punishment. Contrary to Wiggin's objection,
8 Judge Strombom did not resolve questions of fact in her R&R; instead she found that
9 Wiggin had failed to show that a question of fact exists on the issue of whether any
10 Defendant had acted with deliberate indifference to Wiggin's serious medical needs. The
11 Court agrees with Judge Strombom's conclusion. Therefore, the Court having considered
12 the R&R, Wiggin's objections, and the remaining record, does hereby find and order as
13 follows:

- 14 (1) The R&R is **ADOPTED**;
- 15 (2) Defendants' motion for summary judgment is **GRANTED**;
- 16 (3) Wiggin's *in forma pauperis* status is **REVOKED**; and
- 17 (4) This action is **DISMISSED**.

18 Dated this 17th day of January, 2014.

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BENJAMIN H. SETTLE
22 United States District Judge