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8 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

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11 WILLIAM ROSS,

12 Plaintiff,

13 v.

14 WASHINGTON STATE DOC, et al.,

15 Defendants.

CASE NO. 3:16-cv-05469-RJB-TLF

ORDER (1) DENYING
PLAINTIFF'S MOTION TO STAY
AND MOTION FOR
TEMPORARY RESTRAINING
ORDER, AND (2) RENOTING
REPORT AND
RECOMMENDATION TO
DECEMBER 22, 2017

16 THIS ORDER follows consideration of Plaintiff's Motion to Stay and Motion for
17 Temporary Restraining Order (Dkt. 59), and is issued following the Court's review of the file.

18 Plaintiff is an inmate in the custody of Department of Corrections (DOC) and alleges
19 that, following a slip and fall incident, defendants were deliberately indifferent to his serious
20 medical needs in violation of the Washington law and the Eighth Amendment. Dkt. 11. Plaintiff
21 initiated this action on June 13, 2016. Dkt. 1.

22 On March 8, 2017, Defendants filed a Motion for Summary Judgment, which remains
23 pending. Dkt. 35. A Report and Recommendation by Magistrate Judge Theresa L. Fricke

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1 recommends granting Defendants' motion, which would dismiss the case. Dkt. 45. Plaintiff filed
2 an Objection to the Report and Recommendation that the Court construed as a request for more
3 time to conduct discovery. Dkt. 48 at 2. The Court then extended the discovery deadline to
4 September 1, 2017. The Court also renoted the Report and Recommendation from June 16, 2017
5 to September 15, 2017. *Id.* On July 20, 2017, Plaintiff filed a motion to extend the discovery
6 deadline by 90 days, but the Court denied the motion without prejudice as premature on August
7 17, 2017. Dkt. 52.

8 The Court re-noted the Report and Recommendation to October 13, 2017. Dkt. 55. Prior
9 to the consideration of the R&R, Plaintiff filed objections. Dkt. 56. Plaintiff also filed a Motion
10 to Stay and Motion for Temporary Restraining Order. Dkt. 59. The motion requests a stay
11 pending completion of discovery, because, Plaintiff argues, Department of Corrections has
12 obstructed Plaintiff's ability to obtain a witness statement from another inmate, Mr. Elgen
13 McCoy. *Id.* At a telephonic status conference on November 7, 2017, Defendants' counsel agreed
14 to inquire into the status of a declaration by Mr. McCoy. Dkt. 64. *See* Dkt. 66. Mr. McCoy has
15 since filed a sworn affidavit. Dkt. 68.

16 There remains no outstanding discovery, so Plaintiff's motion should be denied as moot.
17 However, the parties should be given the opportunity to supplement their objections.

18 THEREFORE, Plaintiff's Motion to Stay and Motion for Temporary Restraining Order
19 (Dkt. 59) is DENIED WITHOUT PREJUDICE as moot.

20 The Report and Recommendation (Dkt. 45) and underlying Motion for Summary
21 Judgment (Dkt. 35) are HEREBY RENOTED to Friday, December 22, 2017. If the parties wish
22 to supplement their submissions, briefing is due as follows:

23 Supplemental submissions, if any: Monday, Dec. 18, 2017

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1 Response to supplemental submissions: Friday, Dec. 22, 2017

2 Plaintiff is reminded of the warnings given to him by the Court for his consideration in
3 filing any opposition to Defendants' motion for summary judgment. *See* Dkt. 55 at 2, 3.

4 IT IS SO ORDERED.

5 The Clerk is directed to send uncertified copies of this Order to all counsel of record and
6 to any party appearing *pro se* at said party's last known address.

7 Dated this 21st day of November, 2017.

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10 ROBERT J. BRYAN
United States District Judge