UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

WILLIAM WASHINGTON,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT OF CORRECTIONS, et al.,

Defendants.

CASE NO. C17-5728 BHS-TLF

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation ("R&R") of the Honorable Theresa L. Fricke, United States Magistrate Judge (Dkt. 45), and Plaintiff's objections to the R&R (Dkt. 48).

The factual background of this case is set forth in full in the R&R. Dkt. 45 at 2. On November 18, 2017, Plaintiff filed a motion for a temporary restraining order (TRO) and preliminary injunction, appointment of counsel, and an extension of certain limits on discovery. Dkt. 25. On December 22, 2017, Judge Fricke issued the R&R and recommended that Plaintiff's request for a TRO be denied. Dkt. 45. On January 8, 2017, Plaintiff objected to the R&R. Dkt. 48.

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

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

Reviewing the record, the Court agrees with the R&R's assessment that Plaintiff has failed to show a likelihood of success on the merits or irreparable harm absent preliminary relief, both of which are necessary for the issuance of a preliminary injunction. *Lopez v. Brewer*, 680 F.3d 1068, 1072 (9th Cir. 2012). While the gravity of Plaintiff's health conditions is unchallenged by Defendants, the adequacy of his treatment while incarcerated is a subject of dispute. Presently, the record lacks any evidence other than Plaintiff's conclusory assertions that Defendants acted intentionally or with deliberate indifference to interfere with Plaintiff's medical treatment. While Plaintiff has indeed missed several medical appointments, each missed appointment has been accompanied by a reasonable explanation. Dkt. 29 at 6–7; Dkt. 26 at 10, 12, 14, 17, 18. Most importantly, all missed appointments were promptly rescheduled with no adverse impact on Plaintiff's prescribed course of treatment. Dkt. 26 at 6–18; Dkt. 29 at 6–8.

The Court having considered the R&R, Plaintiff's objections, and the remaining record, does hereby find and order as follows:

(1) The R&R is **ADOPTED**; and

(2) Plaintiff's motion for a TRO and preliminary injunction is **DENIED**.

Dated this 16th day of January, 2018.

BENJAMIN H. SETTLE
United States District Judge