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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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8 DARRICK L. HUNTER,

9 Plaintiff,

v.

10 CHARLES N. ROHRER, et al.,

11 Defendants.

CASE NO. C18-5198 BHS

ORDER DECLINING TO ADOPT
REPORT AND
RECOMMENDATION AND
REFERRING FOR FURTHER
PROCEEDINGS

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13 This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge, Dkt. 42, Plaintiff Darrick Hunter’s (“Hunter”) objections to the R&R, Dkt. 43, and the parties’ status report, Dkt. 54.

17 On April 24, 2019, Judge Creatura issued the R&R recommending that the Court grant Defendants Margaret Gilbert, Timothy McCandless, Keith Morgan, and Charles Rohrer’s (“Defendants”) motion for summary judgment. Dkt. 42. On May 9, 2019, Hunter filed objections. Dkt. 43. On October 2, 2019, the Court appointed counsel for Hunter. Dkt. 51. On November 21, 2019, the parties filed a joint status report outlining how each side intends to proceed with this matter. Dkt. 54.

1 Upon review of the report, the Court agrees with Hunter that the Court's order
2 requesting supplemental briefing was not intended to narrow the scope of the issues in
3 this matter nor comment on the R&R. Because the parties agree that discovery should be
4 reopened, the Court concludes that the best path forward is to decline to adopt the R&R
5 and refer the matter for further discovery and dispositive motions. It seems unnecessary
6 to rule on issues at this time before additional discovery is completed or an amended
7 complaint is possibly filed. Therefore:

- 8 (1) The Court declines to **ADOPT** the R&R;
9 (2) Defendants' motion, Dkt. 28, is **DENIED without prejudice**; and
10 (3) The matter is referred for further proceedings.

11 Dated this 11th day of December, 2019.

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BENJAMIN H. SETTLE
United States District Judge