

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

R.M.,

Plaintiff,

v.

STATE OF WASHINGTON, et. al.,

Defendant.

CASE NO. 3:18-cv-05387-RBL-TLF

ORDER ON MAGISTRATE JUDGE
FRICKE'S REPORT AND
RECOMMENDATION AND
DEFENDANTS' OBJECTIONS TO
REPORT AND RECOMMENDATION

THIS MATTER is before the Court on Magistrate Judge Fricke's Report and Recommendation, Dkt. #102, on State Defendants' Motion for Summary Judgment, Dkt. #47. Defendants Object to the Report and Recommendation, arguing that it improperly finds facts and improperly denies their motion for summary judgment on qualified immunity "with prejudice." Dkt. #103. Defendants specifically argue that the Recommendation "erroneously relied on *Hayes v. Synder*, 546 F.3d 516 (7th Cir. 2008)," as it is "not factually analogous" and not controlling law in this case. Dkt. #103 at p. 2.

Under Rule 56, a Court may not make determinations of fact at the summary judgment stage. The Report does not make factual determinations, and this Court will not do so on a summary judgment motion.

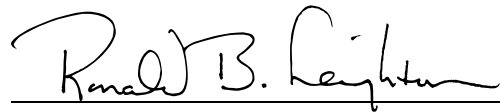
ORDER ON MAGISTRATE JUDGE FRICKE'S
REPORT AND RECOMMENDATION AND
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RECOMMENDATION - 1

1 Viewed in the light most favorable to R.M., the evidence would permit a jury to find that
2 Defendants acted with deliberate indifference to his serious medical needs. Defendants are
3 therefore not entitled to summary judgment on their claim of qualified immunity. This does not
4 mean that the Court is effectively granting the summary judgment motion in R.M.'s favor.

5 The Court ADOPTS the remainder of the Report and Recommendation. Dkt. #102.
6 Defendant's Motion for Summary Judgment is DENIED.

7 IT IS SO ORDERED.

8 Dated this 29th day of July, 2019.

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11 Ronald B. Leighton
12 United States District Judge
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