

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JONATHAN DANIEL SMITH,

Plaintiff,

v.

ROBIN SOUVENIR, *et al.*,

Defendants.

Case No. 3:19-cv-05838-RSL-TLF

ORDER ADOPTING REPORT
AND RECOMMENDATION

The Court, having reviewed plaintiff's complaint, the Report and Recommendation of Judge Theresa L. Fricke, United States Magistrate Judge, and objections to the report and recommendation, if any, and the remaining record, does hereby find and ORDER:

- (1) The Court adopts the Report and Recommendation;
- (2) Defendants' motion for summary judgment (Dkt.30) is GRANTED in part and DENIED in part, as follows:
 - a. The motion is GRANTED and Plaintiff's claims for violation of the Eighth Amendment, Plaintiff's claims against Defendant Souvenir, Plaintiff's Fourteenth Amendment claims against Defendant Matlock for failure to protect and Plaintiff's Fourteenth Amendment claims against Defendants Matlock and Kimball for delay of medical care are DISMISSED with prejudice;

1 b. The motion is DENIED with respect to Plaintiff's Fourteenth Amendment
2 claim against Defendant Kimball for failure to protect. This denial is
3 without prejudice to defendants filing a second motion for summary
4 judgment on the issue of exhaustion of administrative remedies.

5 (3) Plaintiff's motion to remove defendant Robin Souvenir (Dkt. 49) is GRANTED;
6 the claims against Defendant Souvenir are DISMISSED with prejudice;

7 (4) Plaintiff's motion of injunction to motion for summary judgment (Dkt. 53) and
8 motion to proceed to trial (Dkt. 54) are DENIED as moot;

9 Dated this 26th day of April, 2021.

10
11
12 
13 Robert S. Lasnik
United States District Judge
14
15
16
17
18
19
20
21
22
23
24
25