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

11 JOSEPH TYLER LITTLEFIELD,

12 Plaintiff,

13 v.

14 JERRY MCHAFFIE et al.,

15 Defendants.

NO. 3:21-cv-05470-DGE

ORDER ADOPTING REPORT AND
RECOMMENDATION

16 On April 28, 2022, the Honorable Brian A. Tsuchida issued a Report and
17 Recommendation (Dkt. No. 66) in which he recommended Defendants' Motion for Summary
18 Judgment (Dkt. No. 48) be granted and the case dismissed with prejudice. The crux of Plaintiff's
19 claim is Defendants at Clallam Bay Corrections Center provided him Kosher meals with missing
20 food items or inadequate nutrition. (Dkt. No. 27 at 11.) The Report and Recommendation found
21 Defendants "established the state prison has a four-level grievance procedure" and "Plaintiff's
22 complaint which flows from the allegation that his rights were violated because the Kosher meals
23 he was provided were inadequate should be dismissed because he either did not file grievances
24

1 as to some of the meals and did not exhaust his remedies regarding the grievances that he did
2 file.” (Dkt. No. 66 at 10.) Further, as to the merits of Plaintiff’s claims, “the evidence shows
3 Defendants did not violate a constitutional right and thus Defendants are not liable.” (*Id.* at 17.)

4 On May 6, 2022, Plaintiff filed objections to the Report and Recommendation. (Dkt. No.
5 71.) Plaintiff contends that his declaration (Dkt. No. 59) was incomplete and not properly filed
6 in support of his opposition (Dkt. No. 64) to Defendants’ Motion for Summary Judgment (Dkt.
7 No. 48). Plaintiff provided a 124-page declaration to Department of Corrections (DOC)
8 personnel to be filed with the Court, but the declaration filed contained only 121 pages. (Dkt.
9 No. 71 at 3.) Although Plaintiff requested additional scanning so that the declaration would be
10 entered in its entirety, “[DOC] personnel did not contact Plaintiff for scanning of legal
11 documents until Friday April 15, 2022.” (*Id.*) Plaintiff again provided DOC personnel the same
12 declaration, Dkt. No. 59, be filed in support of his opposition to Defendants’ Motion for
13 Summary Judgment, but DOC personnel failed to enter the document into EFC entirely. (*Id.*)
14 Due to DOC personnel’s failure to properly file Plaintiff’s documents, he argues “Plaintiff’s
15 Motion Opposing Summary Judgment was not heard with a complete, true and correct copy of
16 all supporting documents and therefore the Court did not have the opportunity to consider the
17 record complete in its entirety . . .” (*Id.* at 4.) Plaintiff further argues “[a]ll reasons for dismissal
18 cited by the Court were adequately addressed by Plaintiff in his motion and supporting
19 documents and evidence put forth that contradicts and debases the arguments of Defendants in
20 their Motion for Summary Judgment.” (*Id.* at 5.)

21 In response, Defendants argue Plaintiff fails to specify what evidence was not considered
22 by the Court, nor does he explain how it would change the conclusions of the Report and
23 Recommendation. (Dkt. No. 73 at 2.) Defendants assert:

1 [Plaintiff] seems to flatly assert that because the magistrate judge did not consider
2 unspecified pieces of evidence, the entire Report and Recommendation must be
3 rejected. This conclusory argument does nothing to explain why the Report and
4 Recommendation is factually or legally incorrect.

5 (*Id.*)

6 The Court agrees Plaintiff's objections do not present a material issue that would alter the
7 analysis of the Report and Recommendation. Although Plaintiff claims his declaration (Dkt. No.
8 59) was not properly filed in conjunction with his opposition to Defendants' Motion for
9 Summary Judgment (Dkt. No. 64), his declaration (Dkt. No. 59) was entered in the record on
10 April 1, 2022, and thus, considered by the Magistrate Judge in the Report and Recommendation
11 published April 28, 2022. Indeed, the Report and Recommendation states "[t]he Court has
12 considered the pleadings and *record* and the motion for summary judgment is now ripe for the
13 Court's consideration." (Dkt. No. 66 at 2) (emphasis added). Thus, even if Plaintiff's
14 declaration was not refiled with his opposition, it was a part of the record and considered by the
15 Court.


16 Further, although Plaintiff claims his declaration is missing three pages, he does not
17 articulate the contents nor the significance of those pages. He provides only the conclusory
18 argument that it would debase all of Defendants' arguments. Without further explanation, the
19 Court does not find this argument compelling. Additionally, in reviewing Plaintiff's 121-page
20 declaration (Dkt. No. 59), the list of exhibits Plaintiff provides matches the supporting
21 documents filed. Therefore, it is not apparent which documents, if any, are missing or what
22 evidence would have been presented in the additional three pages.

23 Although undoubtedly frustrating and burdensome for Plaintiff, the filing irregularities he
24 presents, standing alone, do not raise a material issue or provide a reason for the Court to reject
the analysis for the Report and Recommendation. Accordingly, having reviewed the Report and

1 Recommendation of the assigned United States Magistrate Judge, Plaintiff's objections,
2 Defendants' response, and the remaining record, the Court finds and ORDERS:

- 3 1. The Court ADOPTS the Report and Recommendation (Dkt. No. 66).
- 4 2. The case is DISMISSED with prejudice.
- 5 3. The Clerk is directed to send copies of this Order to the parties.

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7 Dated this 29th day of July 2022.

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10 David G. Estudillo
11 United States District Judge
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