

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RONALD BUZZARD, JR.,

Plaintiff,

v.

WASHINGTON DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

Case No. C12-5047BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable J. Richard Creatura, United States Magistrate Judge (Dkt. 7) and Plaintiff Ronald Buzzard Jr.’s (“Buzzard”) objections to the R&R (Dkt. 10).


On January 26, 2012, Judge Creatura granted Buzzard leave to proceed in forma pauperis and accepted Buzzard’s civil rights complaint. Dkts. 5 & 6. On January 27, 2012, Judge Creatura issued the R&R recommending that the Court dismiss the complaint without prejudice and without leave to amend because Buzzard fails to state a claim upon which relief may be granted. Dkt. 7. Judge Creatura found that Buzzard is challenging the fact and duration of imprisonment and concluded that Buzzard has no claim for a violation of his civil rights based upon the conviction “unless and until the conviction or sentence is reversed, expunged, invalidated, or impugned by the grant of a writ of habeas corpus.” *See Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

1 Buzzard objects to the R&R and requests that the Court dismiss his request to be
2 immediately released, stay the action and allow his claim for monetary damages to proceed
3 if he succeeds on his writ for habeas corpus. Dkt. 10. The Court declines to stay this action
4 pending the outcome of the habeas proceeding. Buzzard may subsequently file a civil rights
5 action if he succeeds on his habeas petition.

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

- 8 (1) The R&R is **ADOPTED**;
9 (2) Buzzard's complaint is **DISMISSED without prejudice**;
10 (3) Buzzard's other motions (Dkts. 8 & 9) are **DENIED as moot**;
11 (4) Buzzard's in forma pauperis status is **VACATED**; and
12 (5) This case shall be **CLOSED**.

13 DATED this 20th day of March, 2012.

14 
15 _____
16 BENJAMIN H. SETTLE
17 United States District Judge
18
19
20
21
22
23
24
25
26
27