

FILED

NOV 13 2015

Superior Court
Linda Myhre Enlow
Thurston County Clerk

STATE OF WASHINGTON
THURSTON COUNTY SUPERIOR COURT

DAVID ALLEN HAWKINS,

Plaintiff,

v.

BERNARD WARNER,

Defendant.

NO. 15-2-00350-7

ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS
(Proposed)

THIS MATTER having come regularly before the Court on Defendant's motion for dismissal of Plaintiff's complaint, the Court having reviewed Plaintiff's Complaint and attachments 1 through 3 (earned time sheet, classification referral and RCW 72.09.130), Defendant's Motion to Dismiss and exhibits 1 through 9 ((1) Judgment and Sentence, (2) Order Dismissing Petition, *In re Hawkins*, Court of Appeals Cause No. 37203-7-II, (3) Ruling Denying Review, *In re Hawkins*, Supreme Court Cause No. 82013-9, (4) Order Dismissing Petition, *In re Hawkins*, Court of Appeals Cause No. 46279-6-II, (5) Petition, *Hawkins v. Vail*, United States District Court Cause No. C09-5434-RBL/JRC, (6) Report and Recommendation, *Hawkins v. Vail*, United States District Court Cause No. C09-5434-RBL/JRC, (7) Judgment, *Hawkins v. Vail*, United States District Court Cause No. C09-5434-RBL/JRC, (8) Personal Restraint Petition, *In re Hawkins*, Court of Appeals Cause No. 46279-6-II, and (9) Response of the Department of Corrections, *In re Hawkins*, Court of Appeals Cause No. 46279-6-II), Plaintiff's answer and attachments 4 through 6 (Amos Reed's Memorandum,

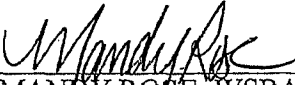
1 700.000, and Decision of Tort Correspondence) and Defendant's Reply and Defendant's
2 supplemental exhibit 10 (Ruling Denying Review, *In re Hawkins*, Washington Supreme Court
3 Cause No. 91305-6), and the records and files herein; does hereby find and **ORDER**:

- 4 1. Defendant's Motion is **GRANTED**.
5 2. Plaintiff's complaint is barred by res judicata, qualified immunity and pursuant to
6 *Heck v. Humphrey*.
7 3. Plaintiff's claims are frivolous and Plaintiff's Complaint is **DISMISSED** with
8 prejudice.

9
10 DATED this 13th day of ~~September~~ ^{November}, 2015.


11
12 
13 HONORABLE GARY TABOR
14 Thurston County Superior Court Judge

15 Presented by:
16 ROBERT W. FERGUSON
17 Attorney General

18 
19 MANDY ROSE, WSBA #38506
20 Assistant Attorney General

11/3/15
DATE

21 Approved as to Form and
22 Notice of Presentation Waived:

23 
24 DAVID A. HAWKINS
25 Plaintiff, Pro Se

10-14-15
DATE