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ATTORNEY GENERAL'S OFFICE
CRIMINAL JUSTICE DIV - OLYMPIA

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CLERK U.S. DISTRICT COURT	
WESTERN DISTRICT OF WASHINGTON AT TACOMA	
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ALLEN L. ROBERTS,

Plaintiff,

v.

JOSEPH LEHMAN, et al.,

Defendant.

Case No. C00-5400 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION

This matter comes before the court on the Report and Recommendation of Magistrate Judge J. Kelley Arnold and a motion by the plaintiff to Amend Complaint and Correct Deficiencies, docket #7.

Magistrate Judge Arnold directed the plaintiff to file an amended complaint curing a variety of deficiencies no later than August 18, 2000 in the Order Declining to Serve Complaint and Granting Leave to Amend, docket #5. In that order, Magistrate Judge Arnold clearly stated that failure to timely file an amended complaint correcting the noted deficiencies would result in dismissal of this action as frivolous pursuant to 18 U.S.C. § 1915A(b)(1) and 28 U.S.C. §1915(e)(2)(B), which would also count as a dismissal under 18 U.S.C. §1915(g).

The plaintiff filed his Motion to Amend Complaint and Correct Deficiencies on August 25,

1 2000, docket #7. The court notes that this pleading was signed on August 17, 2000. However, the
2 plaintiff was clearly instructed on the due date for this filing and the consequences of failure.

3 THEREFORE, IT IS HEREBY ORDERED:

- 4 (1) The Report and Recommendation is ADOPTED.
- 5 (2) The Motion to Amend Complaint and Correct Deficiencies is MOOT.
- 6 (3) The complaint and plaintiff's causes of action are DISMISSED with prejudice as
7 frivolous and for failure to state a claim pursuant to 28 U.S.C. §1915(e)(2)(B) and 28
8 U.S.C. §1915A(b)(1).
- 9 (4) The Clerk is directed to dismiss this action pursuant to 28 U.S.C. §1915(e)(2)(B) and
10 28 U.S.C. §1915A(b)(1) and to send copies of this order to plaintiff, the Hon. J.
11 Kelley Arnold and to the Office of the Attorney General.

12 DATED this 26 day of September, 2000.

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16 FRANKLIN D. BURGESS
17 UNITED STATES DISTRICT JUDGE
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