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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

COLLINS SYLVESTER WILLIAMS, Jr.,

Plaintiff,

v.

CAILEN WEVODAU, THURSTON
COUNTY JAIL, and JAMES
SHAKELTON,

Defendants.

CASE NO. 14-5564 RJB-KLS

ORDER ON REPORT AND
RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U.S. Magistrate Judge Karen L. Strombom (Dkt. 7) and Plaintiff's Motion to Dismiss (Dkt. 8). The Court has considered the Report and Recommendation (Dkt. 7), Plaintiff's Motion to Dismiss (Dkt. 8), and the remaining record.

The facts and procedural history of this case are in the Report and Recommendation (Dkt. 7, at 1-3) and are adopted here by reference. The Report and Recommendation recommends dismissing this case with prejudice for failure to state a claim, as frivolous, and malicious, with the dismissal counting as a strike pursuant to 28 U.S.C. § 1915(g). After the Report and

1 Recommendation was filed, Plaintiff filed a Motion to Dismiss (Dkt 8), moving to dismiss his
2 case without prejudice. In his motion, he acknowledges that the facts and claims asserted in this
3 case are a “duplicate of case No. 14-5544 RBL/KLS.” *Id.*

4 For the reasons stated in the Report and Recommendation, the Report and
5 Recommendation should be adopted, and this case dismissed with prejudice, with the dismissal
6 counting as a strike pursuant to 28 U.S.C. § 1915(g). Plaintiff’s claims are without merit and are
7 frivolous. Plaintiff should not be permitted to avoid dismissal with prejudice with his tardy
8 motion to dismiss. The case now having been dismissed with prejudice, Plaintiff’s motion to
9 dismiss (Dkt. 8) should be stricken as moot. The dismissal in this case should be counted as a
10 strike pursuant to 28 U.S.C. § 1915(g).

11 It is **ORDERED** that:

12 The Report and Recommendation (Dkt. 7) **IS GRANTED**;

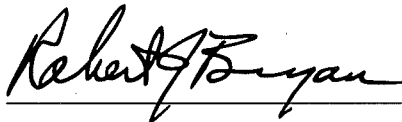
13 This case is **DISMISSED WITH PREJUDICE**;

14 The dismissal counts as a **STRIKE** pursuant to 28 U.S.C. § 1915(g); and

15 Plaintiff’s Motion to Dismiss (Dkt. 8) **IS STRICKEN AS MOOT**.

16 The Clerk is directed to send uncertified copies of this Order to U.S. Magistrate judge
17 Karen I. Strombom, all counsel of record, and to any party appearing *pro se* at said party’s last
18 known address.

19 Dated this 2nd day of September, 2014.

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22 ROBERT J. BRYAN
23 United States District Judge
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