

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

TIMOTHY DUKES,

Plaintiff,

V.

WASHINGTON STATE and MR.
HOMAN

Defendants.

NO: 4:16-CV-5080-RMP

ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING COMPLAINT
WITHOUT PREJUDICE

BEFORE THE COURT is Magistrate Judge John Rodgers' Report and

Recommendation to dismiss the complaint without prejudice for failure to state a claim upon which relief may be granted, ECF No. 9. Magistrate Judge Rodgers specifically did not recommend that this dismissal count as one under 28 U.S.C. § 1915(g), as Plaintiff might be able to pursue an appropriate habeas remedy to challenge state court criminal charges.

Plaintiff, a prisoner at the Washington State Penitentiary, is proceeding *pro se* and *in forma pauperis*; Defendants have not been served in this action. There being no objections, **IT IS ORDERED** that the Report and Recommendation, ECF ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING COMPLAINT WITHOUT PREJUDICE -- 1

1 No. 9, is **ADOPTED in its entirety. IT IS FURTHER ORDERED** that the
2 Complaint, ECF No. 7, is **DISMISSED without prejudice.**

3 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
4 Order, enter judgment, forward a copy to Plaintiff and close the file. The Court
5 certifies any appeal of this dismissal would not be taken in good faith.

6 **DATED** this 18th day of October 2016.

7 s/ Rosanna Malouf Peterson
8 ROSANNA MALOUF PETERSON
United States District Judge