

1  
2  
3  
4  
5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT SEATTLE

8 MICHAEL B. FJERSTAD,

9 Petitioner,

10 v.

11 UNITED STATES OF AMERICA,

12 Respondent.

CASE NO. C10-567RSM-MAT  
(CR07-277RSM)

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND STRIKING  
ADDITIONAL MOTIONS

13  
14 The Court, having reviewed plaintiff's § 2255 petition, the Report and Recommendation of  
15 United States Magistrate Judge Mary Alice Theiler (Dkt. # 41), and petitioner's Objections thereto (Dkt.  
16 # 43), does now find and ORDER:

17 (1) The Report and Recommendation is APPROVED and ADOPTED.

18 (2) Plaintiff's motion for leave to amend his § 2255 petition to address "errors committed by his  
19 defense counsel(s) by and through the signing of the Waiver Agreement" (Dkt. # 37) is DENIED for the  
20 reasons set forth in the Report and Recommendation.

21 (3) Petitioner's Objections (Dkt. # 43) purports to introduce additional amendments to the  
22 petition. To the extent these are presented as additional claims or amendments they have not been  
23 properly raised and are accordingly STRICKEN.

24 (4) Petitioner has filed additional motions, one a "supplemental motion" to amend his petition  
25 (Dkt. # 42), and one to "amend his pleading as a matter of course" (Dkt. # 44). The "supplemental  
26 motion" is not a motion but simply further argument in support of the prior motion to amend, Dkt. # 37.  
27 The latter motion (Dkt. # 44) appears to address the Objections filed, and requests leave to make certain

28 ORDER - 1

1 corrections to the additional claims set forth in the Objections. This portion of petitioner's Objections  
2 has been stricken. Accordingly, both this motion to amend (Dkt. # 44) and the supplemental motion to  
3 amend the petition (Dkt. # 42) are STRICKEN as moot.

4 The Clerk shall direct copies of this Order to plaintiff at has address of record, and to the Hon.  
5 Mary Alice Theiler, United States Magistrate Judge.

6  
7 Dated this 4 day of October 2010.

8 

9 RICARDO S. MARTINEZ  
10 UNITED STATES DISTRICT JUDGE  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27