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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 THOMAS RICHEY,

11 Plaintiff,

12 v.

13 LISA SYKES, et al.,

14 Defendants.

CASE NO. C12-0660JLR

ORDER

15 **I. INTRODUCTION**

16 This matter comes before the court on the Report and Recommendation of United  
17 States Magistrate Judge Mary Alice Theiler (R&R (Dkt. # 23)), and Plaintiff Thomas  
18 Richey's objections thereto (Objection (Dkt. # 24)). Having carefully reviewed the  
19 foregoing, the remainder of the record, and the governing law, the court ADOPTS the  
20 Report and Recommendation (Dkt. # 23) and DISMISSES Mr. Richey's complaint with  
21 prejudice.  
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1 **I. BACKGROUND**

2 Mr. Richey is a state prisoner who is presently incarcerated at the Clallam Bay  
3 Corrections Center (“CBCC”) in Clallam Bay, Washington. Mr. Richey brought a civil  
4 rights action under 42 U.S.C. § 1983 alleging that his First Amendment rights were  
5 violated when mail he attempted to send out of the institution was rejected and  
6 confiscated. The parties brought cross motions for summary judgment with respect to  
7 Mr. Richey’s First Amendment claims. (*See* Dkt. ## 13, 19.)

8 Magistrate Judge Theiler recommended denying Mr. Richey’s motion for  
9 summary judgment, granting Defendants’ motion for summary judgment, and dismissing  
10 Mr. Richey’s complaint with prejudice. (R&R at 11.) Mr. Richey filed a timely  
11 objection to the Magistrate Judge Theiler’s report and recommendation. (*See generally*  
12 *Objection.*)

13 **II. STANDARD OF REVIEW**

14 A district court has jurisdiction to review a Magistrate Judge’s report and  
15 recommendation on dispositive matters. Fed. R. Civ. P. 72(b)(3). “The district judge  
16 must determine de novo any part of the magistrate judge's disposition that has been  
17 properly objected to.” *Id.* “A judge of the court may accept, reject, or modify, in whole  
18 or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C.  
19 § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (The district judge may accept, reject,  
20 modify the recommended disposition; receive further evidence; or return the matter to the  
21 magistrate judge with instructions.”). “The statute makes it clear that the district judge  
22 must review the magistrate judge’s findings and recommendations de novo if objection is

1 made, but not otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.  
2 2003) (en banc). Because Mr. Richey is proceeding *pro se*, this court must interpret his  
3 complaint and objections liberally. *See Bernhardt v. Los Angeles Cnty.*, 339 F.3d 920,  
4 925 (9th Cir. 2003).

### 5 **III. DISCUSSION**

6 Mr. Richey objects to Magistrate Judge Theiler’s Report and Recommendation by  
7 asserting that she applied the wrong standard of scrutiny under Supreme Court precedents  
8 applicable to First Amendment challenges to outgoing prisoner mail. (Objections at 1-3.)  
9 Mr. Richey’s objection to the Report and Recommendation does not raise any issue that  
10 was not correctly addressed by Magistrate Judge Theiler. (*See* R&R at 5-11 (articulating  
11 and applying the correct standard for evaluating a First Amendment challenge to prison  
12 regulations censoring prisoner mail).) Moreover, the court has thoroughly examined the  
13 record before it and finds Magistrate Judge Theiler’s reasoning persuasive in light of that  
14 record. Mr. Richey essentially reargues the contentions made to Magistrate Judge  
15 Theiler, and the court independently rejects them for the same reasons articulated in the  
16 Report and Recommendation. (*See generally* R&R.)

### 17 **IV. CONCLUSION**

18 For the foregoing reasons, the court hereby **ORDERS** as follows:

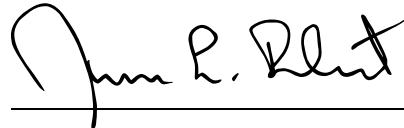
19 (1) The court **ADOPTS** the Report and Recommendation (Dkt. # 23) in its  
20 entirety;

21 (2) The court **DENIES** Mr. Richey’s motion for summary judgment (Dkt. # 13)  
22 and **GRANTS** Defendants’ cross motion for summary judgment (Dkt. # 19);

1 (3) The court DISMISSES Mr. Richey's complaint (Dkt. # 3) with prejudice; and

2 (4) The court DIRECTS the Clerk to send copies of this Order to Mr. Ruchey, to  
3 counsel for respondent, and to Magistrate Judge Theiler.

4 Dated this 18th day of March, 2013.

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8 JAMES L. ROBART  
United States District Judge

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