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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ROBERT E. BURROW,

Petitioner,

v.

RON FRAKER,

Respondent.

CASE NO. C17-1303-RSL-MAT

ORDER OF TRANSFER

The Court, having reviewed the proposed 28 U.S.C. § 2254 petition for writ of habeas corpus, the Motion to Dismiss Second or Successive Petition for Lack of Subject Matter Jurisdiction, the Report and Recommendation of the Honorable Mary Alice Theiler, United States Magistrate Judge, any objections or responses thereto, and the remaining record, finds and orders as follows:

(1) The Court ADOPTS the Report and Recommendation.


(2) The motion to dismiss (Dkt. 12) is GRANTED, the proposed petition is construed as a request for permission to file a second or successive petition, and this case is hereby TRANSFERRED to the Ninth Circuit Court of Appeals pursuant to 28 U.S.C. § 1631 and Ninth Circuit Rule 22-3.

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1 (3) Petitioner is advised that this transfer does not of itself constitute compliance with  
2 § 2244(b)(3) and Ninth Circuit Rule 22-3; he must still file a motion for leave to proceed in the  
3 Court of Appeals and make the showing required by § 2244(b)(2).

4 (4) The Clerk is directed to close this case and to transfer all original documents to the  
5 Ninth Circuit Court of Appeals. The Clerk shall, however, retain a copy of the petition and this  
6 Order in the file. The Clerk shall also direct copies of this Order to petitioner and to Judge Theiler.

7 DATED this 22<sup>nd</sup> day of January, 2018.

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9 ROBERT S. LASNIK  
United States District Judge