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2  
3 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
4 AT TACOMA

5 CASEY R. PERRY,

6 Plaintiff,

7 v.

8 JOHN SCOTT,

9 Defendant.

Case No. C08-5729 FDB

ORDER ADOPTING REPORT AND  
RECOMMENDATION DISMISSING  
COMPLAINT FOR FAILURE TO  
STATE A CLAIM

10 The Magistrate Judge recommends that this civil rights action be dismissed for failure to  
11 state a claim. Plaintiff has failed to avail himself of the opportunity to file an amended complaint or  
12 show cause explaining why this matter should not be dismissed. Nor has Plaintiff filed any  
13 objection to the Report and Recommendation.

14 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen L.  
15 Strombom, and the remaining record, does hereby find and ORDER:

- 16 (1) The Court adopts the Report and Recommendation;
- 17 (2) This action is **DISMISSED without prejudice** prior to service for failure to state a  
18 claim. **This dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g)**; and
- 19 (3) The Clerk is directed to send copies of this Order to Plaintiff, counsel for any  
20 Defendants who have appeared, and to the Hon. Karen L. Strombom.

21  
22 DATED this 27<sup>th</sup> day of February, 2009.

23   
24 FRANKLIN D. BURGESS  
25 UNITED STATES DISTRICT JUDGE

26 ORDER - 1