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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 CECIL DUDGEON,

8 Petitioner,

9 v.

10 HENRY RICHARDS,

11 Respondent.

No. C09-5299 FDB

ORDER ADOPTING REPORT AND
RECOMMENDATION DISMISSING
HABEAS PEITITION WITH PREJUDICE

12 This matter comes before the Court on the Report and Recommendation of the Magistrate
13 Judge that Petitioner's request for habeas corpus relief be denied and the petition be dismissed
14 with prejudice. The Report and Recommendation finds that of the six grounds for relief raised
15 by Petitioner, two of the claims are time barred, three are unexhausted and procedurally barred
16 and one is without merit. The Petitioner has filed objections to the Report and Recommendation.

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18 Petitioner's objections are simply a restatement of the argument that has been
19 exhaustively and thoroughly analyzed by the Magistrate Judge. As detailed by the Report and
20 Recommendation, Petitioner's first and second habeas claims challenging his sexually violent
21 predator conviction are time-barred under 28 U.S.C. § 2244(d). Petitioner failed to properly
22 exhaust his third, fourth and sixth claims and, as he has previously filed a personal restraint
23 petition, he is now procedurally barred from presenting those claims. In addition, Petitioner has
24 made no showing of cause and prejudice or actual innocence. Finally, Petitioner's fifth claim for
25 relief is without merit as the Washington Court of Appeals' rejection of this claim was not
26 contrary to or an unreasonable application of clearly established federal law.

ORDER ADOPTING REPORT AND RECOMMENDATION - 1

1 The Court, having reviewed the petition for writ of habeas corpus, the response, the
2 Report and Recommendation of Magistrate Judge Karen L. Strombom, objections to the Report
3 and Recommendation,, and the remaining record, does hereby find and ORDER:

- 4 (1) The Court adopts the Report and Recommendation.
- 5 (2) Petitioner's writ of habeas corpus [Dkt. 3] is **DENIED** and this action is
6 **DISMISSED WITH PREJUDICE**.
- 7 (3) In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the
8 United States District Courts, a certificate of appealability is **DENIED** with
9 respect to all six claims asserted by Petitioner in his habeas petition.
- 10 (4) The Clerk is directed to send copies of this Order to Petitioner, counsel for
11 Respondent and to the Hon. Karen L. Strombom.

12 DATED this 29th day of January, 2010.

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FRANKLIN D. BURGESS
UNITED STATES DISTRICT JUDGE