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6 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
7 AT TACOMA

8 JASON SANDBERG,

9 Plaintiff,

10 v.

11 SUPERINTENDENT RON VAN BOENING
12 et al.

13 Defendant.

CASE NO. 09-5347 RJB

ORDER ADOPTING A REPORT
AND RECOMMENDATION

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15 This matter comes before the Court on the Report and Recommendation of the
16 Honorable J. Richard Creatura, United States Magistrate Judge, dated July 18, 2011 (Dkt.
17 106), and Plaintiff's Objections to the Report and Recommendation, filed July 29, 2011
18 (Dkt. 107), and also on Plaintiff's Motion to Stand on My Complaint (Dkt. 104). The
19 Court has considered the Report and Recommendation, Plaintiff's objections, and the
20 remaining record, and hereby adopts the Amended Report and Recommendation for the
21 reasons stated herein.

22 The Magistrate Judge recommends that Plaintiff's action be dismissed for failure
23 to state a claim. Dkt. 106 pp. 9. Alternatively, the action is subject to dismissal for
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1 failure to exhaust administrative remedies. *Id.* As detailed in the Report and
2 Recommendation, Plaintiff has failed to plead facts to support any of his claims. Plaintiff
3 has been afforded a number of opportunities to amend his complaint to cure the
4 deficiencies and Plaintiff refuses to do so. *Id.*, at 1-2; Dkt. 104.


5 Plaintiff's objections to the Report and Recommendation simply restate his causes
6 of action and state Plaintiff's position that the "Court must accept my complaint as it's
7 true" Dkt. 107 pp. 1-2.

8 Plaintiff's objections are unpersuasive. Plaintiff has failed to plead facts that raise
9 a right to relief. See *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544 (2007).

10 The Court having reviewed the Report and Recommendation of the Hon. J.
11 Richard Creatura, United States Magistrate Judge, objections to the Report and
12 Recommendation, and the remaining record, does hereby find and **ORDER**:

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- 14 (1) The Court adopts the Report and Recommendation and denies the Motion
15 to Stand on my Complaint; and
 - 16 (2) This action is **DISMISSED WITH PREJUDICE** for failure to state
17 a claim. Plaintiff has been given multiple opportunities to cure the
18 defects in his pleadings and he has failed to do so. This dismissal
counts as a strike pursuant to 28 U.S.C. § 1915 (e)(2). *In forma*
pauperis status is revoked for purposes of appeal.

19 DATED this 12th day of August, 2011.

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22 ROBERT J. BRYAN
23 United States District Judge
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