

United States District Court

WESTERN DISTRICT OF WASHINGTON

DALE MITCHELL

JUDGMENT IN A CIVIL CASE

v.

RON VAN BOENING

CASE NUMBER: C09-5460 RJB/JRC

___ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

XX **Decision by Court.** This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

THE COURT HAS ORDERED THAT

1. The Court **ADOPTS** the Report and Recommendation (Dkt. 13);
2. The petition is **DISMISSED WITHOUT PREJUDICE** as unexhausted;
3. In accordance with Rule 11 of the Rules Governing Section 2254 Cases in the United States District Courts, a certificate of appealability is **DENIED** with respect to all claims asserted by petitioner in his habeas petition.

February 23, 2010

Date

BRUCE RIFKIN

Clerk

s/Mary Trent

Deputy Clerk