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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

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DAVID ALLEN HAWKINS,

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Petitioner,

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v.

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ELDON VAIL,

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Respondent.

No. C10-5162BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

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16   This matter comes before the Court on the Report and Recommendation of the

17   Honorable Karen L. Strombom, United States Magistrate Judge (Dkt. 5) and Petitioner's

18   Objection to Report and Recommendation (Dkt. 6). The Court has considered the Report

19   and Recommendation, Petitioner's objections, and the remaining record, and hereby adopts

20   the Report and Recommendation for the reasons stated herein.

21   On March 10, 2010, Petitioner filed a petition for writ of habeas corpus. Dkt. 3. On

22   March 15, 2010, the Magistrate Judge issued a Report and Recommendation (Dkt. 5) which

23   transferred Petitioner's writ for habeas corpus to the Ninth Circuit Court of Appeals because

24   it is successive under Circuit Rule 22-3(a).

25   On March 24, 2010, Petitioner objected to the Magistrate Judge's Report and

26   Recommendation. Dkt. 6. Petitioner does not object to the fact that his petition is

27   successive. Instead, he objects on the basis that this matter should not be transferred to the
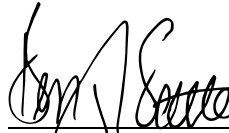
28   ORDER – 1

Ninth Circuit because he has already "filed for Permission to File the Current Petition with the Ninth Circuit Court of Appeals on February 8th 2010." *Id*. at 2.

Petitioner requests that this Court overrule or dismiss the Magistrate Judge's Report and Recommendation and grant review of his petition. However, pursuant to Circuit Rule 22-3(a), this Court lacks the authority to review Petitioner's writ of habeas corpus because it is successive.

Therefore, it is hereby **ORDERED** that:

(1)   The Court **OVERRULES** Petitioner's objections;

(2)   The Court **ADOPTS** the Report and Recommendation; and

(3)   This action is **TRANSFERRED** to the Ninth Circuit Court of Appeals pursuant to Rule 22-3(a).

DATED this 28ᵗʰ day of April, 2010.

BENJAMIN H. SETTLE
United States District Judge

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