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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

PHILLIP BURTON HAUSKEN,

Plaintiff,

v.

KEVIN VANDE WEYE, et al.,

Defendants.

CASE NO. C13-5560 BHS

ORDER DENYING MOTION TO
AMEND

This matter comes before the Court on Plaintiff Phillip Burton Hausken’s (“Hausken”) motion to amend his complaint (Dkt.14). The Court has considered the pleadings filed in support of the motion and the remainder of the file, and hereby denies the motion for the reasons stated herein.

Hausken failed to file objections to Magistrate Judge Richard Creatura’s July 15, 2013 Report and Recommendations (“R&R), which recommended dismissal of his case (Dkt. 6). In the R&R, Judge Creatura stated:

Plaintiff has filed three actions in the last ten months challenging the fact that prison officials are taking fifty cents a month from his prison

1 account for cable television. The actions are 12-5882BHS/JRC; 13-
2 5346RBJ/JRC; and this action.

3 Dkt. 6 at 1. He further explained the “duplicative” nature of each action and
4 described Hausken’s disregard for prior orders related to those actions. *Id.* at 1-2.
5 Thus, Judge Creatura recommended both dismissal of Hausken’s complaint as
6 “malicious” and that his filing of the instant action count has a third strike. *Id.* at 2-
7 3.

8 By failing to file objections, Hausken waived them for purposes of a de novo
9 review by the district judge. *See* Dkt. 6 at 3 (*citing* 28 U.S.C. § 636(b)(1)(C)). On
10 August 27, 2013, the Court, having considered the R&R and the remaining record, and no
11 objections having been filed, adopted the R&R, and dismissed the action as malicious.
12 Dkt. 12. The Court ordered that the dismissal count as a strike pursuant to 28 U.S.C. §
13 1915(g). *Id.*

14 On August 28, 2013, judgment was entered against Hausken, and his case is now
15 closed. Dkt. 13. On September 23, 2013, Hausken filed the instant motion to amend his
16 complaint apparently seeking to add the Department of Corrections (“DOC”) as a
17 Defendant. Dkt. 14 at 1-2. As Judge Creatura referenced in his R&R, Hausken has an
18 almost identical case (C12-5882BHS/JRC) pending before him regarding the deduction
19 of fifty cents from his inmate trust account. In that case, the Court determined that while
20 Hausken cannot receive money damages, he may pursue his claim for injunctive relief
21 against certain DOC employees in their official capacities. *See* Dkt. 40. The relief
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1 Hausken could receive from adding DOC as a defendant to this action is thus being
2 sought in another action, which is essentially duplicative of this matter.

3 Therefore, it is hereby **ORDERED** that Hausken's motion to amend (Dkt. 14) is
4 **DENIED.**

5 Dated this 27th day of September, 2013.

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BENJAMIN H. SETTLE
9 United States District Judge
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