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

8 ANDRE T. PARKER,

9 Petitioner,

10 v.

11 MIKE OBENLAND,

12 Respondent.

CASE NO. C14-5303 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

13 This matter comes before the Court on the Report and Recommendation (“R&R”)
14 of the Honorable J. Richard Creatura, United States Magistrate Judge. Dkt. 27. The Court
15 having considered the R&R and the remaining record, and no objections having been
16 filed, does hereby find and order as follows:

17 (1) The R&R is **ADOPTED**; and

18 (2) Petitioner failed to fairly present grounds one, two, and three under federal
19 law by invoking one complete round of Washington state court appellate review and
20 therefore, has not exhausted his state remedies as to grounds one, two and three.

21 Furthermore, petitioner has already filed one personal restraint petition and does not
22 demonstrate cause and prejudice or a fundamental miscarriage of justice; therefore, he is

1 procedurally barred from filing another collateral challenge. Accordingly, grounds one,
2 two, and three are unexhausted and procedurally barred and the petition is **DISMISSED**.

3 (3) The undersigned denies the issuance of a certificate of appealability.

4 Dated this 30th day November, 2015.

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7 BENJAMIN H. SETTLE
8 United States District Judge
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