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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOSEPH MICHAEL DONNETTE-SHERMAN,

Plaintiff,

v.

STATE OF WASHINGTON, et al.,

Defendants.

CASE NO. C17-5600 BHS

ORDER ADOPTING REPORT
AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation (“R&R”) of the Honorable David W. Christel, United States Magistrate Judge, Dkt. 41, and Plaintiff Joseph Michael Donnette-Sherman’s (“Donnette-Sherman”) objections to the R&R, Dkt. 42.

On December 19, 2018, Judge Christel issued the R&R recommending that the Court grant Defendants’ motion to dismiss because Donnette-Sherman failed to state a claim. Dkt. 41. On January 11, 2019, Donnette-Sherman filed objections. Dkt. 42.

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or

1 modify the recommended disposition; receive further evidence; or return the matter to the
2 magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3).

3 In this case, Donnette-Sherman fails to assert valid objections. Donnette-
4 Sherman's claims are based on alleged violations of his rights during his criminal trial in
5 state court. The law is clearly established that Donnette-Sherman may not challenge such
6 alleged violations unless he successfully invalidates that conviction. Therefore,
7 Donnette-Sherman's civil rights claims against the prosecutor and his court-appointed
8 counsel necessarily fail because his conviction has not been invalidated.

9 The Court having considered the R&R, Donnette-Sherman's objections, and the
10 remaining record, does hereby find and order as follows:

- 11 (1) The R&R is **ADOPTED**;
- 12 (2) Defendants' motion to dismiss, Dkt. 35, is **GRANTED**;
- 13 (3) Donnette-Sherman's *in forma pauperis* status is **REVOKED** for purposes
14 of appeal; and
- 15 (4) The Clerk shall enter a JUDGMENT and close the case.

16 Dated this 2nd day of April, 2019.

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BENJAMIN H. SETTLE
United States District Judge