

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN ROBERT DEMOS, JR.,

CASE NO. 3:22-cv-05343-TL

Plaintiff(s),

ORDER ADOPTING REPORT AND RECOMMENDATION

WASHINGTON STATE SUPREME
COURT,

Defendant(s).

This matter comes before the Court on the Report and Recommendation of the Honorable S. Kate Vaughan, United States Magistrate Judge (Dkt. No. 2) and Petitioner John Robert Demos, Jr.’s objections to the Report and Recommendation (Dkt. No. 3). Having reviewed the Report and Recommendation, Petitioner’s objections, and the remaining record, the Court ADOPTS the Report and Recommendation, OVERRULES the objections, and DISMISSES the Petition.

A district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3) (the Court “must determine de novo any part of the

1 magistrate judge's disposition that has been properly objected to."). "The district judge may
2 accept, reject, or modify the recommended disposition; receive further evidence; or return the
3 matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3); *accord* 28 U.S.C.
4 § 636(b)(1). A party properly objects when the party files "specific written objections" to the
5 report and recommendation as required under Federal Rule of Civil Procedure 72(b)(2).

6 Mr. Demos objects to the Report and Recommendation on the sole ground that the bar
7 order prohibiting him from seeking an extraordinary writ in this district without payment of the
8 filing fee does not apply to this petition for a writ of habeas corpus under 28 U.S.C. § 2241. Dkt.
9 No. 3 at 1). The order in question specifically bars Mr. Demos from filing petitions for relief
10 under 28 U.S.C. §§ 1651, 2253, or 2254. *See Demos v. Stanley*, MC97-0031-JLW (W.D. Wash.
11 Mar. 13, 1997). The order does not specifically include relief under § 2241 because Mr. Demos
12 is a Washington state prisoner and cannot seek relief from his original conviction under that
13 statute. *See* 28 U.S.C. 2241(c). The Court understands the order to prohibit Mr. Demos from
14 seeking any extraordinary writs in this district based on his original conviction in Washington
15 state court. As noted by Judge Vaughan in the report and recommendation, the petition at bar
16 seeks such an extraordinary writ and was filed without payment of the filing fee. Dkt. No. 2
17 at 1-2, n.1.

18 The Court therefore ORDERS:

19 1. Mr. Demos' objection is OVERRULED;
20 2. The Report and Recommendation is APPROVED and ADOPTED;
21 3. The Clerk shall administratively CLOSE this matter.

1 Dated this 29th day of July 2022.

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Tana Lin
United States District Judge