

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

MICHAEL SCOTT REEDER,)	
#232101)	
)	
Petitioner,)	
)	Civil Action No. 2:09-cv-1035-ID
v.)	(WO)
)	
)	
RICHARD ALLEN, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

Before the court are the Recommendation of the Magistrate Judge (Doc. #26), Petitioner’s Motion to Amend Complaint (Doc. #32) which this court construes as an objection to the Recommendation of the Magistrate Judge, and Petitioner’s Motion for Stay and Abeyance. (Doc. #34). Having conducted a *de novo* determination of those portions of the Recommendation to which objections are made, it is CONSIDERED and ORDERED as follows:

1. Petitioner’s Motion to Amend Complaint (Doc. #32), which this court construes as an objection to the Recommendation of the Magistrate Judge, be and the same is hereby OVERRULED.
2. Petitioner’s Motion for Stay and Abeyance (Doc. #34) is DENIED.
3. The Recommendation of the Magistrate Judge (Doc. #26) be and the same is hereby ADOPTED, APPROVED and AFFIRMED.

4. The petition for habeas corpus relief filed by Michael Scott Reeder be and the same is hereby DENIED and DISMISSED, without prejudice, for failure to exhaust his remedies in state court.¹

DONE this 30th day of April, 2010.

/s/ Ira DeMent
SENIOR UNITED STATES DISTRICT JUDGE

¹ The court notes that the dismissal of the Petitioner's 28 U.S.C. § 2254 petition for failure to exhaust state remedies does not render a subsequent petition for a writ of habeas corpus second or successive under 28 U.S.C. § 2244(b). *See, e.g., Slack v. McDaniel*, 529 U.S. 473, 486-87, 120 S. Ct. 1595, 1605, 146 L. Ed. 2d 542 (2000).