

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

|                                       |   |                         |
|---------------------------------------|---|-------------------------|
| ROBERT L. McCRAY, # 167644,           | ) |                         |
|                                       | ) |                         |
| Petitioner,                           | ) |                         |
| v.                                    | ) | CASE NO. 3:09-CV-659-ID |
|                                       | ) | (WO)                    |
| JOHN CUMMINS, WARDEN, <i>et al.</i> , | ) |                         |
|                                       | ) |                         |
| Respondents.                          | ) |                         |

**ORDER**

After an independent review of the file, it is hereby CONSIDERED and ORDERED that:

1. The petitioner's objection (Doc. # 23) to the Recommendation of the Magistrate Judge, filed on October 5, 2009, be and the same is hereby OVERRULED;
2. The Recommendation of the Magistrate Judge (Doc. #22) filed on September 22, 2009, be and the same is hereby ADOPTED;
3. The petition for habeas corpus relief filed by Petitioner Robert McCray be and the same is hereby DISMISSED without prejudice to afford Petitioner an opportunity to exhaust all available state court remedies.

DONE this 16th day of November, 2009.

                        /s/ Ira DeMent  
SENIOR UNITED STATES DISTRICT JUDGE