

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

PHILLIP WAYNE TOMLIN, :

Petitioner, :

vs. : **CIVIL ACTION 09-0651-CG-M**

GRANTT CULLIVER, :

Respondent. :

ORDER

After due and proper consideration of all pleadings in this file, and there having been no objections filed, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is adopted as the opinion of this Court.

It is **ORDERED** that this petition be **DENIED** and that this action be **DISMISSED**, without prejudice, so that Petitioner may pursue available state court remedies.

DONE and ORDERED this 3rd day of November, 2009.

/s/ Callie V. S. Granade

CHIEF UNITED STATES DISTRICT JUDGE