

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

DAVID CASON,

Petitioner,

v.

CASE NO. 1:07-cv-00134-MP -GRJ

JAMES R MCDONOUGH,

Defendant.

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ORDER

This matter is before the Court on Doc. 15, Report and Recommendation of Magistrate Judge, recommending that the claims of petitioner be denied. The time for filing objections has passed, and none have been filed. The Court agrees with the Magistrate Judge that the decision of the state court, rejecting petitioner’s claims, should not be overturned.

First, petitioner has not presented clear and convincing evidence that the state court was wrong in finding that proposed witness Stephen McClain declined to testify on petitioner’s behalf. Second, the Court agrees that the state court correctly applied federal law in holding that the disciplinary hearing team provided due process when it allowed seven witnesses to be called but declined to allow other witnesses who would have been merely cumulative. Third, the Court agrees that the state court was correct in holding that a disciplinary report need only be supported by "some evidence" and that there was some evidence in this case to support the disciplinary report. Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The Report and Recommendation of the Magistrate Judge is adopted and incorporated herein.

2. The petition for a writ of habeas corpus, Doc. 1, is denied with prejudice.
3. For the reasons stated above, the Court finds that Petitioner fails to make a substantial showing of the denial of a constitutional right and the issues are not adequate to deserve encouragement to proceed further. Accordingly, no certificate of appealability is appropriate in this case.

DONE AND ORDERED this 17th day of May, 2011

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge