

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

DANNY A GREEN,

Petitioner,

v.

CASE NO. 1:08-cv-00131-MP-AK

WILLIAM P CERVONE,
BILL MCCOLLUM,

Respondents.

ORDER

This matter is before the Court on Doc. 57, Report and Recommendation by the Magistrate Judge, concerning Petitioner's Doc. 54 Motion for an Immediate Hearing. On January 7, 2009, this Court dismissed Petitioner's petition for a writ of habeas corpus without prejudice, on the grounds that he had failed to exhaust state remedies. Petitioner has, since then, filed several motions, including this Motion for an Immediate Hearing. There is no indication, however, that Petitioner's state court post-conviction motions have concluded. Thus, Petitioner's state court remedies remain unexhausted. Once Petitioner has exhausted his available state remedies, he may file a new writ of habeas corpus in this Court.

To the extent that Petitioner seeks injunctive relief based on his alleged continued lack of access to medical attention, he should raise those issues in the § 1983 action now pending, Case No. 4:09cv212-MMP/AK, as his medical condition lies at the heart of that proceeding.

Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The Magistrate Judge's Report and Recommendation, Doc. 57, is adopted and

incorporated herein.

2. Petitioner's Motion for an Immediate Hearing, Doc. 54, is DENIED.

DONE AND ORDERED this 25th day of August, 2009

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge