

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF FLORIDA  
GAINESVILLE DIVISION

CHRISTOPHER BRADLEY,

PETITIONER,

-vs-

Case No. 1:13-cv-00244-WTH-GRJ

SECRETARY DEPARTMENT OF CORRECTIONS,

RESPONDENT.

ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated December 23, 2016. (Doc. 26). The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). Plaintiff has filed objections at Doc. 34. I have made a de novo review based on those objections. Having considered the Report and Recommendation, and the timely filed objections, I have determined that the Report and Recommendation should be adopted.

In his objections, Petitioner argues that "in order to show that counsel's action was a strategic decision or a tactical decision an evidentiary hearing must be held." ECF No. 34 at 7. This is simply not the law, however. It does not matter whether defense counsel actually reasoned along the lines articulated by

the Court because the test to be applied is one of objective reasonableness. See Chandler v. United States, 218 F.3d 1305, 1311 (11<sup>th</sup> Cir. 2000) (en banc), *citing United States v. Fortson*, 194 F.3d 730, 736 (6<sup>th</sup> Cir. 1999)(determining – without district court findings or even an evidentiary hearing – that defendant had not overcome the presumption of effective assistance because the court could conceive of numerous reasonable strategic motives for counsel’s actions at trial) (internal citations omitted)(emphasis supplied). See also, Thomas v. United States, 596 Fed. Appx. 808, 810 (11<sup>th</sup> Cir. 2015)(“The test is whether counsel’s representation fell below an objective standard of reasonableness, not whether counsel could provide some explanation for their actions.”)

Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The magistrate judge’s Report and Recommendation is adopted and incorporated by reference in this order.
2. The Clerk is directed to enter a judgment which states: “The Amended Petition under 28 U.S.C. § 2254, ECF No. 4, is denied and a certificate of appealability is denied.”
3. The Clerk is directed to close the file.

DONE and ORDERED at Gainesville, Florida this 10<sup>th</sup> day of May,  
2017.



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UNITED STATES DISTRICT JUDGE