

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

JOHN VINING,

Petitioner,

v.

CASE NO. 1:13-cv-00246-MP-GRJ

SECRETARY FLORIDA DEPARTMENT OF CORRECTIONS,

Defendant.

ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated December 9, 2014. (Doc. 16). 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). The time for filing objections has passed, and none have been filed. Having considered the Report and Recommendation, I have determined that the Report and Recommendation should be adopted. The petition was untimely, having been filed three years after the time limit. Also, the Court agrees with the Magistrate Judge that the petitioner has not shown the extraordinary circumstances necessary to justify equitable tolling. 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. Respondent's Motion to Dismiss, Doc. 10, is GRANTED, and Doc 5, the amended §2254 petition for writ of habeas corpus is DISMISSED. A certificate of appealability is DENIED.

DONE AND ORDERED this 5th day of February, 2015

s/Maurice M. Paul
Maurice M. Paul, Senior District Judge