

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

JOHN STEPHENS, JR,

Petitioner,

v.

CASE NO. 1:14-cv-00108-MP-GRJ

JAMES COKER, SECRETARY DEPARTMENT OF CORRECTIONS,

Respondents.

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ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated October 20, 2016. (Doc. 13). 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). Petitioner has filed objections at Doc. 14. 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. The Court agrees with the Magistrate Judge that grounds Two and Three were procedurally defaulted. The Court also agrees that Petitioner's claim that his trial counsel was ineffective for avoiding depositions and seeking a downward departure based on cooperation is wholly without merit. Petitioner has failed to show that his trial counsel's performance was deficient. Based on Petitioner's desire to enter a plea, his representations to the state court that he was satisfied with his counsel, and his reasons for not wanting to take depositions, it cannot be said that counsel's failure to investigate Petitioner's case more fully was deficient performance. To the contrary, it was completely

reasonable. Petitioner was advised that his counsel had not fully investigated his case, and Petitioner stated that he still desired to enter a plea to the court. Further, Petitioner acknowledged under oath, "Because I wish to accept the State's plea offer, at my request and with my agreement, my lawyer has not fully investigated my case nor talked to all of the witnesses." (Ex C; Ex. D at 8.) 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 judgment stating that the Petition for Writ of Habeas Corpus is denied and that a certificate of appealability is denied.

DONE AND ORDERED this 29th day of December, 2016

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