

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

JOSEPH BRIAN FLEMING,  
Petitioner,

vs.

Case No. 3:08cv229/MCR/EMT

SCOTT A. MIDDLEBROOKS, Warden,  
Respondent.

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**ORDER**

This cause comes on for consideration upon the magistrate judge's report and recommendation dated October 1, 2008 (Doc. 10). 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). I have made a de novo determination of any timely filed objections.

Having considered the report and recommendation, and any objections thereto timely filed, I have determined that the report and recommendation should be adopted.

Accordingly, it is now **ORDERED** as follows:

1. The magistrate judge's report and recommendation is adopted and incorporated by reference in this order.
2. Petitioner's petition for writ of habeas corpus (Doc. 1) is **DENIED** and the clerk is directed to close the file.

**DONE AND ORDERED** this 31<sup>st</sup> day of October, 2008.

*s/ M. Casey Rodgers*  
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**M. CASEY RODGERS**  
**UNITED STATES DISTRICT JUDGE**