

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

MYRIAM PEREZ, as next friend for
RICHARD ROBERTS, #098865,
Petitioner,

vs.

Case No.: 3:08cv245/LAC/EMT

FREDERICK B. DUNPHY, CHAIRMAN,
Respondent.

_____ /

ORDER

This cause comes on for consideration upon the magistrate judge's report and recommendation dated January 27, 2009 (Doc. 25). 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 objections filed, if any.

Having considered the report and recommendation, and any timely filed objections thereto, 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. Respondent's motion to dismiss (Doc. 22) is **GRANTED**.
3. This case is dismissed without prejudice for Petitioner's failure to exhaust state remedies pursuant to 28 U.S.C. § 2254(b).

DONE AND ORDERED this 2nd day of March, 2009.

s/L. A. Collier

LACEY A. COLLIER
SENIOR UNITED STATES DISTRICT JUDGE