

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

MARVIN D. LANCASTER,

Petitioner,

v.

Case No.: 3:09cv333/MCR/EMT

KENNETH S. TUCKER,

Respondent.

ORDER

This cause comes on for consideration upon the magistrate judge's Report and Recommendation dated October 20, 2011 (doc. 30). 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.¹

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. The petition for writ of habeas corpus (doc. 1) is **DENIED**.

¹ In his objection to the Report and Recommendation (doc. 32), the Petitioner argues that, contrary to the magistrate judge's finding, he is able to rebut the state court's conclusion that he began serving the 50-year sentence imposed in Case No. 80-480 in December 2000. To that end, the Petitioner attaches a number of documents that he contends clearly state that he began serving his sentence in Case No. 80-480 in October 1980. The court has reviewed the documents attached by the Petitioner, and the only reference to the date on which the Petitioner began serving the sentence imposed in Case No. 80-480 indicates that he began serving the sentence in December 2000.

3. A certificate of appealability is **DENIED**.

DONE AND ORDERED this 8th day of February, 2012.

s/ M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE