

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

JAMES LONNIE BAKER, JR.,
Petitioner,

v.

No. 3:09cv444/LAC/MD

SECRETARY, DEPARTMENT
OF CORRECTIONS,
Respondent.

ORDER

Upon consideration of the Report and Recommendation of the Magistrate Judge filed on April 7, 2010, pursuant to 28 U.S.C. § 636(b)(1)(B), and no objections having been filed, the Recommendation is adopted as the opinion of the Court.

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 respondent's motion to dismiss (doc. 13) is GRANTED.
3. The petition for writ of habeas corpus (doc. 1) is DISMISSED WITHOUT PREJUDICE.
4. The clerk is directed to close the file.
5. The court finds no substantial showing of the denial of a constitutional right in this case. 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483-84, 120 S.Ct. 1595, 1603-04, 146 L.Ed.2d 542 (2000) (explaining how to satisfy this showing) (citation omitted). Therefore, a certificate of appealability is DENIED.

DONE AND ORDERED this 3rd day of May, 2010.

s/L.A. Collier

LACEY A. COLLIER

SENIOR UNITED STATES DISTRICT JUDGE