

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

PHILLIP TOLER,

Plaintiff,

v.

Case No. 3:09cv523/MCR/CJK

CHARLES HALLEY, et al.,

Defendants.

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**ORDER**

Upon consideration of the Report and Recommendation of the Magistrate Judge filed on January 12, 2011, pursuant to 28 U.S.C. § 636(b)(1)(B), and after reviewing objections to the Recommendation, if any, 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 defendants' motion to dismiss (doc. 58) is **GRANTED**.
3. This cause is **DISMISSED WITHOUT PREJUDICE** for plaintiff's failure to exhaust available administrative remedies.
4. The clerk is directed to close the file.

**DONE AND ORDERED** this 20th day of February, 2012.

*s/ M. Casey Rodgers*

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**M. CASEY RODGERS**  
**CHIEF UNITED STATES DISTRICT JUDGE**