

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

ERNEST LEE GATLING,

Plaintiff,

vs.

Case No. 3:10cv172/MCR/CJK

WALTER A. MCNEIL, Secretary,  
Florida Department of Corrections,

Defendant.

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**ORDER**

Upon consideration of the Report and Recommendation of the Magistrate Judge filed on June 6, 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. This action is DISMISSED WITHOUT PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and the clerk is directed to close the file.

**DONE AND ORDERED** this 24th day of June, 2011.

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