

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

JOHN B. HOLLAND,

Petitioner,

v.

CASE NO.: 3:10cv410/MCR/MD

WALTER MCNEIL,

Respondent.

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ORDER

This cause comes on for consideration upon the magistrate judge's report and recommendation dated October 27, 2010. The petitioner has been furnished a copy of the report and recommendation and has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1), and I have made a de novo determination of those portions to which an objection has been made.

Having considered the report and recommendation and all objections thereto timely filed, I have determined that the report and recommendation should be adopted.

Accordingly, it is now ORDERED:

1. The magistrate judge's report and recommendation is adopted and incorporated by reference in this order.
2. The § 2254 petition (doc. 1) is DISMISSED WITHOUT PREJUDICE for lack of jurisdiction.
3. The clerk is directed to close this file and send petitioner the Eleventh Circuit's form application for leave to file a second or successive petition.

4. A certificate of appealability is DENIED.

DONE AND ORDERED this 8th day of December, 2010.

sl *M. Casey Rodgers*
M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE