

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

DAVID EARL LUTZ,
Petitioner,

vs.

Case No. 3:11cv334/LAC/EMT

JOHN PALMER, WARDEN,
Respondent.

ORDER

This cause comes on for consideration upon the magistrate judge's Report and Recommendation dated March 9, 2012 (doc. 23). 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 objections filed.

Having considered the Report and Recommendation, and the timely filed objections thereto, 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. Respondent's motion to dismiss (doc. 14) is **DENIED**.
3. Petitioner's motion for summary judgment (doc. 21) is **DENIED**.
4. Respondent is directed to file an answer to the habeas petition within **SIXTY (60) DAYS** from the date of docketing of this order.

DONE AND ORDERED this 23rd day of April, 2012.

s/L.A. Collier

LACEY A. COLLIER
SENIOR UNITED STATES DISTRICT JUDGE