

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

HOWARD C. HICKEY,

Plaintiff,

v.

Case No.: 3:12cv471/MCR/EMT

WARDEN C. HALLEY, et al.,

Defendants.

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ORDER

This cause comes on for consideration upon the magistrate judge's Report and Recommendation dated January 11, 2013 (doc. 16). Plaintiff 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). I have made a de novo determination of any timely filed objections.

Having considered the Report and Recommendation, and any objections thereto timely filed, 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. This action is **DISMISSED without prejudice** for failure to exhaust administrative remedies, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

3. The clerk is directed to enter judgment accordingly and close the file.

DONE AND ORDERED this 8th day of February, 2013.

s/ M. Casey Rodgers

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