

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

BRANDON CARTER,

Petitioner,

v.

Case No. 3:15cv142-LC/CAS

**SECRETARY, Florida
Department of Corrections,**

Respondent.

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ORDER

This cause comes before the Court on the Report and Recommendation of the Magistrate Judge (ECF No. 19) dated February 6, 2017, recommending that Respondent's motion to dismiss contained in its response (ECF No. 11) be denied and that the petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 be denied. The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections. I have made a de novo determination of the timely filed objections (ECF No. 22).

Having considered the Report and Recommendation, and the objections thereto, I have determined that the Report and Recommendation should be adopted.

Accordingly, it is now **ORDERED** as follows:

1. The Report and Recommendation (ECF No. 19) is adopted and incorporated by reference in this order.

2. The Respondent's motion to dismiss (ECF No. 11) is **DENIED**.

2. The petition for writ of habeas corpus filed by Petitioner Carter pursuant to 28 U.S.C. § 2254 is **DENIED**. A certificate of appealability and leave to appeal in forma pauperis is also **DENIED**.

3. The Clerk shall enter judgment and close the file.

DONE AND ORDERED this 17th day of March, 2017.

s/ L.A. Collier

LACEY A. COLLIER
Senior United States District Judge