

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

DENNIS WAYNE ELLIOTT,

Petitioner,

v.

CASE NO. 3:15cv359/MCR/EMT

JULIE L. JONES,

Respondent.

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ORDER

This cause comes on for consideration upon the chief magistrate judge's Report and Recommendation dated January 31, 2017. ECF No. 36. 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 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 chief magistrate judge's Report and Recommendation is adopted and incorporated by reference in this Order.
2. Respondent's motion to dismiss, ECF No. 30, is **GRANTED**.
3. The second amended habeas petition, ECF No. 11, is **DISMISSED** with prejudice as untimely.
4. A certificate of appealability is **DENIED**.

DONE AND ORDERED this 1st day of March, 2017.

s/ M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE