

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

LUTHER ARTHUR HORN, III,

Petitioner,

v.

Case No. 3:16cv715-LC-CJK

FLORIDA DEPARTMENT OF
CORRECTIONS SECRETARY,

Respondent.

_____ /

ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated August 31, 2018. (Doc. 35). 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). No objections have been filed.

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

Accordingly, it is ORDERED:

1. The Magistrate Judge's Report and Recommendation (doc. 35) is adopted and incorporated by reference in this order.

2. Respondent's motion to dismiss (doc. 28) is GRANTED.

3. The amended petition for writ of habeas corpus (doc. 16), challenging the judgment of conviction and sentence in *State of Florida v. Luther Arthur Horn, III*, Walton County Circuit Court Case No. 2013-CF-278, is DISMISSED WITHOUT PREJUDICE for lack for exhaustion.

4. The clerk is directed to close the file.

5. A certificate of appealability is DENIED.

ORDERED on this 1st day of October, 2018.

s/L. A. Collier

LACEY A. COLLIER
SENIOR UNITED STATES DISTRICT JUDGE