

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

JEREMY ELLIS,

Petitioner,

vs.

CASE NO.: 4:07cv361-SPM/WCS

WALTER A. McNEIL,

Respondent.

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**ORDER**

This cause comes before the Court on the Magistrate Judge's Report and Recommendation (doc. 25) dated November 6, 2008. The parties have been furnished a copy and 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 the report and recommendation should be adopted.

Accordingly, it is hereby ORDERED as follows:

1. The magistrate judge's report and recommendation (doc. 25) is ADOPTED and incorporated by reference in this order.
2. Respondent's motion to dismiss (doc. 17) is granted.
3. The petition is dismissed without prejudice for failure to exhaust state

court remedies.

4. The clerk shall send a copy of this order and the report and recommendation to Assistant Public Defender Joel Arnold, 301 S. Monroe Street, Suite 401, Tallahassee, Florida, 32301.

DONE AND ORDERED this 29th day of December, 2008.

*s/ Stephan P. Mickle*

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Stephan P. Mickle  
United States District Judge