

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

JEFFREY GREENE,

Petitioner,

v.

Case No. 4:07-cv-401-AW-HTC

RICKY DIXON,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

I have considered the magistrate judge’s May 10, 2022 Report and Recommendation. ECF No. 79. There has been no objection. I have determined the Report and Recommendation should be adopted.

Like the magistrate judge, I conclude the “MOTION TO REOPEN PETITION PUR. TO. RULE (1.540.(A)(B)(3) RELIEF FROM JUDGEMENT [sic]” is best construed as a motion for relief from judgment under Rule 60(b). And like the magistrate judge, I conclude it must be denied.

One of the several bases on which the magistrate judge based the recommendation was that Greene had not served the respondent. Through an amended “motion to reopen,” it appears Greene may have now done so. *See* ECF No. 80. But even if this cured the service issue, it does not change the outcome because the amended motion still fails for the other reasons the magistrate judge explained.

It is now ORDERED:

1. The Report and Recommendation (ECF No. 79) is adopted and incorporated into this order.

2. The Petition (construed as a Rule 60(b) motion) (ECF No. 76) is DENIED.

3. The clerk will change the case style to reflect that Ricky Dixon is substituted as the respondent. *See* Fed. R. Civ. P. 25(d) (providing for substitution of public officer sued in official capacity).

4. The clerk will close the file.

SO ORDERED on June 9, 2022.

s/ Allen Winsor

United States District Judge