

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

MELVIN B. THOMPSON,

Petitioner,

v.

4:07cv407-WS

WALTER A. MCNEIL,

Respondent.

ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

Before the court is the magistrate judge's report and recommendation docketed November 6, 2008. See Doc. 34. The magistrate judge recommends that the petitioner's petition for writ of habeas corpus be dismissed without prejudice. The petitioner does not object to the magistrate judge's report and recommendation, assuming that a later petition will not be deemed untimely or barred as a second or successive habeas corpus petition.

This court having determined that the magistrate judge's report and recommendation should be adopted, it is ORDERED:

1. The magistrate judge's report and recommendation (doc. 34) is hereby ADOPTED and incorporated by reference into this order.
2. The petitioner's amended section 2254 petition for writ of habeas corpus (doc. 12) is hereby DISMISSED *without* prejudice.

3. The clerk shall enter judgment accordingly.

DONE AND ORDERED this 3rd day of December, 2008.

s/ William Stafford

WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE