

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

MICHAEL A. SMITH,

Petitioner,

v.

CASE NO. 4:08cv431-RH/WCS

WALTER A. McNEIL,

Respondent.

ORDER DENYING PETITION

This matter is before the court on the magistrate judge's report and recommendation (document 6), to which no objections have been filed. Upon consideration,

IT IS ORDERED:

The report and recommendation is ACCEPTED and adopted as the opinion of the court. The clerk must enter judgment stating, "The petition is DENIED."

The clerk must close the file.

SO ORDERED on February 9, 2009.

s/Robert L. Hinkle _____
Chief United States District Judge