

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

JARVIS FORTSON,

Petitioner,

v.

CASE NO. 4:08cv489-RH/WCS

WALTER McNEIL,

Respondent.

_____ /

**ORDER DENYING MOTION TO DISMISS AND
REMANDING TO THE MAGISTRATE JUDGE FOR
FURTHER PROCEEDINGS**

This case is before the court on the magistrate judge's report and recommendation (document 22). No objections have been filed. Upon consideration,

IT IS ORDERED:

The report and recommendation is ACCEPTED and adopted as the court's opinion. The respondent's motion to dismiss (document 19) is DENIED. The respondent must file an answer by February 8, 2010. The petitioner may file a reply within 30 days after service of the answer. The case is remanded to the

magistrate judge for further proceedings.

SO ORDERED on January 8, 2010.

s/Robert L. Hinkle
United States District Judge