

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

SHERRIE LEMCOOL,

Plaintiff,

v.

CASE NO. 4:09cv376-RH/CAS

ASSISTANT WARDEN POOLE
et al.,

Defendants.

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ORDER OF DISMISSAL

This case is before the court on the magistrate judge's report and recommendation, ECF No. 88. No objections have been filed.

The plaintiff's claim is that the defendant correctional officers deprived the plaintiff of the right to the free exercise of religion by imposing specific requirements. New rules now are in place that the defendants say have cured the problem. The plaintiff has not shown otherwise.

Under this circuit's application of the voluntary-cessation branch of the mootness doctrine, a governmental entity that has discontinued challenged conduct enjoys a rebuttable presumption that the conduct will not recur. *See, e.g., Bankshot*

Billiards, Inc. v. City of Ocala, 634 F.3d 1340, 1351-52 (11th Cir. 2011)

(collecting cases). The report and recommendation correctly concludes that this case is now moot.

If the plaintiff asserts she is still unable to freely practice her religion, she may file a timely motion to alter or amend the judgment that will be entered based on this order. But based on the record as it now stands, the case must be dismissed.

IT IS ORDERED:

The report and recommendation is ACCEPTED and adopted as the court's further opinion. The clerk must enter judgment stating, "This case is DISMISSED without prejudice." The clerk must close the file.

SO ORDERED on August 8, 2012.

s/Robert L. Hinkle
United States District Judge