

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

RICHARD L JOHNSON,

Petitioner,

v.

CASE NO. 4:10-cv-00498-MP -GRJ

BRAIN DEMARAIS, T R KNIGHT,

Respondents.

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**ORDER**

This matter is before the Court on Doc. 12, the Report and Recommendation of the Magistrate Judge, recommending dismiss for failure to exhaust state remedies by filing an action in state court. In his objections, however, the Petitioner claims that he did file a state court action and took it through appeal. For this reason, the Report and Recommendation is rejected and the matter referred back to the Magistrate Judge to determine if the claims in the objections, Doc. 14, make a difference.

**DONE AND ORDERED** this 15th day of April, 2011

*s/Maurice M. Paul*

Maurice M. Paul, Senior District Judge