

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

JOHN F. ENGELHORN,

Plaintiff,

v.

4:10cv534-WS

WALTER A. McNEIL, et al.,

Defendants.

ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

Before the court is the magistrate judge's report and recommendation docketed June 6, 2011. See Doc. 32. The magistrate judge recommends that the plaintiff's fifth amended complaint and this case be dismissed for failure to state a claim and for failure to exhaust. The plaintiff has filed objections (doc. 33) to the report and recommendation.

Having considered the record in light of the plaintiff's objections, the court finds that the case must be dismissed as recommended by the magistrate judge.

Accordingly, it is ORDERED:

1. The magistrate judge's report and recommendation (doc. 32) is hereby ADOPTED and incorporated by reference into this order.
2. The plaintiff's complaint and this action are DISMISSED for failure to state a claim and for failure to exhaust pursuant to 28 U.S.C. § 1915(e)(2)(B) (ii). The clerk

shall note on the docket sheet that this cause was dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

3. The clerk shall enter judgment, stating: "The complaint is dismissed under 28 U.S.C. § 1915(e)(2)(B)."

DONE AND ORDERED this 24th day of June, 2011.

s/ William Stafford
WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE