

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

RICHARD A. RODAK,

Petitioner,

v.

CASE NO. 4:12cv69-SPM/CAS

KENNETH S. TUCKER,

Respondent.

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**ORDER**

THIS CAUSE comes before the court on the magistrate judge's report and recommendation dated May 9, 2012 (doc. 8). Petitioner has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). No objections have been filed.

I have determined that the report and recommendation should be adopted. Accordingly, it is hereby ORDERED as follows:

1. The magistrate judge's report and recommendation (doc. 8) is ADOPTED and incorporated by reference in this order.
2. The § 2254 petition is summarily dismissed without prejudice to refiling when Petitioner has exhausted available state court remedies.

3. A certificate of appealability is denied.

DONE AND ORDERED this 15th day of June, 2012.

*s/ Stephan P. Mickle*

Stephan P. Mickle  
Senior United States District Judge