

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

DANIEL MARION,

Petitioner,

v.

CASE NO. 4:12cv254-SPM/CAS

KENNETH S. TUCKER, as Secretary  
of Florida Department of Corrections,

Respondent.

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**ORDER**

THIS CAUSE comes before the court on the magistrate judge's Report and Recommendation dated January 7, 2013. (Doc. 15). No objections have been filed. Having considered the Report and Recommendation pursuant to 28 U.S.C. § 636(b)(1), 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. 15) is ADOPTED and incorporated by reference in this order.
2. The amended petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 (doc. 5) is DISMISSED WITHOUT PREJUDICE.
3. Petitioner's motion to stay (doc. 5) is DENIED.
4. A certificate of appealability is DENIED.

**DONE AND ORDERED** this 20th day of February, 2013.

*s/ M. Casey Rodgers*

**M. CASEY RODGERS  
CHIEF UNITED STATES DISTRICT JUDGE**