

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

JAMES M. CROSS,

Petitioner,

v.

CASE NO. 4:13cv13-RH/GRJ

SECRETARY, DEPARTMENT OF
CORRECTIONS,

Respondent.

_____ /

ORDER DISMISSING PETITION

This case is before the court on the magistrate judge's report and recommendation, ECF No. 9. No objections have been filed. Upon consideration,

IT IS ORDERED:

The report and recommendation is ACCEPTED IN PART. The plaintiff's motion to voluntarily dismiss, ECF No. 8, is GRANTED. The defendant's motion to dismiss, ECF No. 5, is DENIED AS MOOT. The clerk must enter judgment stating, "The petition is DISMISSED without prejudice." The clerk must close the file.

SO ORDERED on May 25, 2013.

s/Robert L. Hinkle _____
United States District Judge