

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

STEVEN R. DEWITT,
Petitioner,

v.

Case No. 4:15cv433-MW/CAS

STATE OF FLORIDA,

Respondent.

ORDER ACCEPTING AND ADOPTING RECOMMENDED ORDERS

Petitioner filed his § 2254 petition with this Court on October 19, 2015. ECF No. 5. The Magistrate Judge entered his Report and Recommendation on May 16, 2017, in which Petitioner was afforded the opportunity to file any objections he may have to the report. ECF No. 31. Petitioner moved for leave to amend or supplement his § 2254 petition, ECF No. 32, and for reconsideration of the report and recommendation, ECF No. 33, on May 24, 2017. On June 2, 2017, Petitioner filed objections to the report and recommendation. ECF No. 35. The Magistrate Judge granted Petitioner's motions for reconsideration and to amend or supplement his § 2254 petition and vacated his prior report and recommendation, ECF No. 31, on May 31, 2017. ECF No. 34.

Petitioner then filed his Motion Requesting Leave to Supplement Argument to Ground Two in his Initial § 2254 Petition, ECF No. 36, and his Motion Supplementing Argument to Ground Two in his Initial § 2254 Petition, ECF No. 37,

on June 7, 2017. The Magistrate Judge granted Petitioner's motions on June 9, 2017. ECF No. 38.

The Magistrate Judge entered his Report and Recommendation on August 7, 2017, ECF No. 44, in which Petitioner was afforded the opportunity to file any objections he may have to the report. Petitioner filed objections to the report and recommendation on September 1, 2017, ECF No. 49, prior to this Court's acceptance of the report and recommendation, along with his Notice of Appeal. ECF No. 50. Further, on September 5, 2017, Petitioner filed his Motion for Reconsideration of the Magistrate Judge's Report and Recommendation. ECF No. 53. Thus Petitioner has filed objections, a notice of appeal, and a motion for reconsideration all related to the Magistrate Judge's report and recommendation. Additionally, Petitioner filed his Second Motion Requesting Leave to Amend and/or Supplement his Initial § 2254 Petition and his Second Motion Amending and/or Supplementing his Initial § 2254 Petition with supplemental claims. ECF Nos. 47 and 48. On September 7, 2017, the Magistrate Judge entered his Order on Petitioner's Motion to Amend or Supplement and Motion for Reconsideration. ECF No. 54.

Petitioner filed an Emergency Motion to Voluntarily Dismiss his Initial § 2254 Petition, ECF No. 56, on September 15, 2017. The Magistrate Judge entered his Recommended Order on Petitioner's motion, ECF No. 57, on September 19, 2017. And again, on September 25, 2017, Petitioner filed an additional Emergency

Motion to Voluntarily Dismiss his § 2254 Petition Prior to Ruling. ECF No. 58. The Magistrate Judge entered his Recommended Order on Petitioner's Second Motion to Voluntarily Dismiss his § 2254 Petition Prior to Ruling, ECF No. 60, on October 5, 2017.

On October 10, 2017, this Court ordered Petitioner to file any and all objections he may have to the Magistrate Judge's pending reports and recommendations on or before October 23, 2017. ECF No. 61. Petitioner filed no objections, but instead moved for reconsideration of the Magistrate Judge's Report and Recommendation, ECF No. 62, and again moved for leave to supplement his initial § 2254 petition with additional claims, ECF No. 63.

The fact that Petitioner filed a Notice of Appeal, ECF No. 50, on an order not subject to appeal—the Magistrate Judge's Report and Recommendation, ECF No. 44—does not divest this Court of jurisdiction to address the four pending orders of the Magistrate Judge, ECF Nos. 44, 54, 57, and 60. Moreover, on September 28, 2017, the Eleventh Circuit issued its mandate dismissing Petitioner's appeal. ECF No. 59.

This Court has considered, without hearing, (1) the Magistrate Judge's Report and Recommendation to Deny Petitioner's § 2254 Petition, ECF No. 44, (2) the Magistrate Judge's Recommended Order on Petitioner's Motion to Amend or Supplement and Motion for Reconsideration, ECF No. 54, (3) the Magistrate Judge's

Recommended Order on Petitioner's Motion to Voluntarily Dismiss his § 2254 Petition Prior to Ruling, ECF No. 57, and (4) the Magistrate Judge's Recommended Order on Petitioner's Second Motion to Voluntarily Dismiss his § 2254 Petition Prior to Ruling, ECF No. 60, and has also reviewed *de novo* Petitioner's objections to the report and recommendation, ECF No. 49.

In addition to the foregoing, this Court has considered, without hearing, Petitioner's Motion for Reconsideration, ECF No. 62, and Petitioner's Motion Requesting Leave to Supplement his Initial § 2254 Petition, ECF No. 63. Accordingly,

IT IS ORDERED:

1. The report and recommendation, ECF No. 44, is **accepted and adopted**, over Petitioner's objections, as this Court's opinion. The writ of habeas corpus, ECF No. 5, as supplemented and amended, is **DENIED**.
2. The Magistrate Judge's recommended orders, ECF Nos. 54, 57, and 60, are **accepted and adopted** as this Court's opinions. Petitioner's motions to supplement and/or amend to add supplemental claims, ECF Nos. 47 and 48, and Petitioner's motion for reconsideration, ECF No. 53, are **DENIED**. Petitioner's Emergency Motion to Voluntarily Dismiss his Initial § 2254 Petition, ECF No. 56, and his Second Emergency Motion to Voluntarily Dismiss his Initial § 2254 Petition, ECF No. 58, are **DENIED**.

3. The motions, ECF Nos. 62 and 63, are **DENIED**.
4. The Clerk shall enter judgment stating, “The petition for writ of habeas corpus, ECF No. 5, as supplemented and amended, is **DENIED**. A certificate of appealability is **DENIED** and leave to appeal *in forma pauperis* is **DENIED**.”
5. Petitioner may file a Notice of Appeal, if he wishes to do so, on or before 30 days after entry of this Order.
6. The Clerk shall close the file.

SO ORDERED on October 27, 2017.

s/Mark E. Walker
United States District Judge