

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

**JEFFREY BAILEY,**

**Petitioner,**

**v.**

**Case No. 4:24-cv-276-AW-ZCB**

**RICKY DIXON,**

**Respondent.**

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

Jeffrey Bailey filed a § 2254 petition alleging ineffective assistance of his state-court trial counsel. He acknowledges his sole claim is unexhausted; the state court denied his Rule 3.850 petition, and the appeal is still pending. The Secretary moved to dismiss for lack of exhaustion. In response, Baily argued for abatement.

The magistrate judge issued a report and recommendation concluding dismissal is appropriate. Bailey filed no objection. Having carefully considered the matter, I agree with the magistrate judge. I now adopt the report and recommendation (ECF No. 16) and incorporate it into this order.

The motion to dismiss (ECF No. 10) is GRANTED. The clerk will enter a judgment that says, “The § 2254 petition is dismissed without prejudice for lack of exhaustion.” A certificate of appealability is DENIED.

The clerk will close the file.

SO ORDERED on January 7, 2025.

s/ Allen Winsor  
United States District Judge