

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

PHILLIP VAN ZANT,
Petitioner,

vs.

Case No.: 5:05cv208/RS/EMT

FLORIDA PAROLE COMMISSION
Respondent.

ORDER

This matter is before the court upon referral from the District Judge. Petitioner initiated this action by filing a petition for writ of habeas corpus under 28 U.S.C. § 2254 (Doc. 1). Respondent previously filed a motion to dismiss the petition on the ground that it was untimely (Doc. 19). The undersigned issued a Report and Recommendation on Marcy 29, 2007, recommending that the district court grant Respondent's motion to dismiss (Doc. 37). On April 20, 2007, District Judge Richard Smoak issued an order adopting the Report and Recommendation, granting Respondent's motion to dismiss, and dismissing the habeas petition (Doc. 43). Petitioner appealed the judgment; and on January 21, 2009, the Eleventh Circuit Court of Appeals vacated the judgment and remanded to the district court for further proceedings (*see* Doc. 95). The appellate court returned the original papers to the district court on April 10, 2009 (Doc. 105). Because Respondent has not addressed the merits of Petitioner's claims, it shall now be given an opportunity to do so.¹

Accordingly, it is **ORDERED**:

¹The court notes that in Respondent's answer and motion to dismiss, Respondent noted that Petitioner raised four (4) grounds in the instant habeas petition (*see* Doc. 19 at 7). Respondent is advised that Petitioner raises eight (8) claims, all of which Respondent shall address in its response (*see* Doc. 1 at 1–22).

Within **THIRTY (30) DAYS** from the date this order is entered on the docket, Respondent shall file a response to the habeas petition and supporting memorandum of law (Docs. 1, 12).

DONE AND ORDERED this 11th day of August 2009.

/s/ Elizabeth M. Timothy _____

ELIZABETH M. TIMOTHY
UNITED STATES MAGISTRATE JUDGE