

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

DANIEL KEVIN SCHMIDT,

Petitioner,

vs.

CASE NO. 5:07cv281/RS-MD

WALTER A. McNEIL, Secretary of
Florida Department of Corrections,

Respondent.

_____ /

ORDER

Before me is Magistrate Judges Report and Recommendation (Doc. 71).

Petitioner has not filed objections.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation is approved and incorporated in this Order.
2. Respondent's Motion to Dismiss (Doc. 67) is granted. The Petition For Writ Of Habeas Corpus (Doc. 1) is dismissed without prejudice as moot.
3. Petitioner's Motion for Summary Judgment (Doc. 61) is denied as moot.
4. The clerk is directed to close the file.

ORDERED on June 11, 2010.

/S/ Richard Smoak

RICHARD SMOAK
UNITED STATES DISTRICT JUDGE