

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

ROBERT LEE BRANDON,

Petitioner,

vs.

CASE NO. 5:08cv234/RS-MD

WALTER A. McNEIL,

Respondent.

_____ /

ORDER

Before me are the Magistrate Judge's Report and Recommendation (Doc. 26) and Respondent's Objection (Doc. 27). I have considered Respondent's objections *de novo*.

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. 23) is denied.
3. Respondent shall address the merits of Petitioner's claims or assert other procedural defenses not later than thirty days from the date of this Order.

ORDERED on March 4, 2009.

/S/ Richard Smoak _____

**RICHARD SMOAK
UNITED STATES DISTRICT JUDGE**