

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

ALBERT L. TYUS,

Petitioner,

vs.

CASE NO. 5:08cv361/RS-MD

WALTER A. McNEIL,

Respondent.

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**ORDER**

Before me is the Magistrate Judge's Report and Recommendation (Doc. 23).

Petitioner has not filed objections.

**IT IS ORDERED:**

1. The Magistrate Judge's Report and Recommendation is adopted and incorporated by reference in this Order.
2. Respondent's Motion to Dismiss (Doc. 13) is **granted**.
3. Petitioner's Petition for Writ of Habeas Corpus (Doc. 1), which challenged the conviction and sentence in *State of Florida v. Albert Lamar Tyus* in the Circuit Court of Jackson County, Florida, Case No. 01-155, is dismissed with prejudice.
4. The clerk is directed to close the file.

**ORDERED** on December 2, 2009.

/s/ Richard Smoak \_\_\_\_\_

**RICHARD SMOAK**

**UNITED STATES DISTRICT JUDGE**