

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

ALPHANEE B. GAMMON,  
Petitioner,

vs.

Case No. 5:09cv53/RH/EMT

WALTER A. McNEIL,  
Respondent.

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**ORDER**

Pending is Petitioner's application for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. The undersigned issued a Report and Recommendation recommending that habeas relief be granted as to one of Petitioner's claims (Doc. 30). Respondent filed a motion for reconsideration and objections to the Report and Recommendation (Docs. 31, 34).

Upon consideration of the issues raised by Respondent in his motion for reconsideration and objections, the court concludes that the interests of justice would best be served in this case if Petitioner were represented by counsel. If Petitioner cannot afford to retain counsel, counsel may be appointed by the court under the Criminal Justice Act. *See* 18 U.S.C. § 3006A(a)(2)(B) (2008) (providing that "[w]henver the United States magistrate judge or the court determines that the interests of justice so require, representation may be provided for any financially eligible person who . . . is seeking relief under section . . . 2254 . . . of title 28"); McBride v. Sharpe, 25 F.3d 962, 971 (11th Cir. 1994). If Petitioner desires appointment of counsel by the court under § 3006A, he should complete the financial affidavit provided to him by the clerk of court, declaring that his responses are true subject to perjury prosecution.

Accordingly, it is **ORDERED**:

1. The clerk shall send Petitioner an Affidavit of Financial Status form.
2. If Petitioner desires appointment of counsel, he shall complete the financial affidavit, swearing that his responses are true subject to perjury prosecution. The completed form must be returned to this court on or before **OCTOBER 26, 2009**.
3. The clerk shall delay referral of the Report and Recommendation to the District Judge until further direction by the undersigned.

**DONE AND ORDERED** this 16<sup>th</sup> day of October 2009.

*/s/ Elizabeth M. Timothy*  
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**ELIZABETH M. TIMOTHY**  
**UNITED STATES MAGISTRATE JUDGE**