

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

BRANDON L HIMKO,

Petitioner,

v.

CASE NO. 5:16-cv-00035-MP-EMT

N C ENGLISH,

Respondent.

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ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated December 5, 2016. ECF No. 17. The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). Petitioner has filed objections at ECF No. 18. I have made a de novo review based on those objections. Having considered the Report and Recommendation, and the timely filed objections, I have determined that the Report and Recommendation should be adopted.

Accordingly, it is hereby **ORDERED AND ADJUDGED:**

1. The Magistrate Judge's Report and Recommendation, ECF No. 17, is adopted and incorporated by reference in this order.
2. The clerk is directed to enter the following judgment:
"Respondent's Motion to Dismiss ECF No. 11, is **GRANTED**. The

petition for writ of habeas corpus under 28 U.S.C. § 2241, ECF No. 1, is **DISMISSED WITHOUT PREJUDICE** to Petitioner's bringing his claims in a civil rights action.”

3. The clerk is directed to close the file.

SO ORDERED on January 4, 2017.

s/Mark E. Walker
United States District Judge