

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-61558-CIV-LENARD/WHITE

**ANTHONY D. GARLAND,**

Petitioner,

vs.

**WALTER A. MCNEIL,**

Respondent.

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**ORDER ADOPTING REPORT OF MAGISTRATE JUDGE (D.E. 52) AND  
DISMISSING PETITION FOR WRIT OF HABEAS CORPUS (D.E. 1)**

**THIS CAUSE** is before the Court on the Report and Recommendation of Magistrate Judge Patrick A. White (“Report,” D.E. 52), issued on January 13, 2010, recommending this Court dismiss without prejudice Petitioner’s Anthony D. Garland’s Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 (“Petition,” D.E. 1), filed on September 30, 2008. Petitioner raises eight claims for relief in his Petition. The Report finds Petitioner has not exhausted claims one, two, three, four and six in the state forum. (Report at 4.) As to claims five, seven and eight, the Report finds that those claims have never been raised in state court and therefore are procedurally barred due to state law procedural default. (*Id.* at 6-7.) Ultimately, the Report recommends dismissal without prejudice of the Petition and counsel the Petitioner to return promptly to this Court after all state court remedies have been exhausted.

Petitioner filed his Objections to the Report (“Objections,” D.E. 55) on February 1,

2010. The Objections do not address the grounds for dismissal set forth in the report, namely Petitioner's failure to exhaust claims in state court and procedural default. The Objections are therefore without merit. After an independent review of the Report, the Objections, the Petition and the record, it is hereby **ORDERED AND ADJUDGED** that:

1. Consistent with this Order, the Report and Recommendation of Magistrate Judge Patrick A. White (D.E. 52), issued on January 13, 2010, is **ADOPTED**;
2. Petitioner's Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (D.E. 1), filed on September 30, 2008, is **DISMISSED WITHOUT PREJUDICE**;
3. All other pending motions are **DENIED AS MOOT**;
4. This case is now **CLOSED**.

**DONE AND ORDERED** in Chambers at Miami, Florida, this 29th day of April, 2011.

  
**JOAN A. LENARD**  
**UNITED STATES DISTRICT JUDGE**