

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**  
Case No. 08-21472-CIV-UNGARO/WHITE

PETER FRANCIS KELLER,

Plaintiff,

v.

WARDEN GISULA PICHARDO et al.,

Defendants.

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**ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION**

THIS CAUSE is before the Court upon the parties' cross-motions for summary judgment. (D.E. 98, 140, 160 & 172). The Honorable Patrick A. White, United States Magistrate Judge has issued a Report and Recommendation dated July 1, 2009, recommending that the motions for summary judgment be denied without prejudice to renew after Plaintiff supplements the record with lumbar spine MRI results by September 1, 2009. The parties have failed to file objections to the Report. *See LoConte v. Dugger*, 847 F.2d 145 (11th Cir. 1988), *cert. denied*, 488 U.S. 958 (1988) (holding the failure to file timely objections bars the parties from attacking factual findings on appeal). The matter is ripe for disposition.

THIS COURT has made a *de novo* review of the entire file and record herein, and, being otherwise fully advised in the premises, it is hereby

ORDERED and ADJUDGED that United States Magistrate Judge White's Report and Recommendation of July 1, 2009, is RATIFIED, AFFIRMED and ADOPTED IN PART. It is further

ORDERED AND ADJUDGED that the parties' cross-motions for summary judgment (D.E. 98, 140, 160 & 172) are DENIED WITHOUT PREJUDICE. The parties may refile their motions after Plaintiff supplements the record with lumbar spine MRI results on or before

September 1, 2009.

DONE AND ORDERED in Chambers at Miami, Florida, this 30th day of July, 2009.

A handwritten signature in cursive script, reading "Ursula Ungaro".

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URSULA UNGARO  
UNITED STATES DISTRICT JUDGE

cc: Counsel of Record