

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Ft. Pierce Division

Case Number:08-14045-CIV-MARTINEZ-WHITE

WILBUR RUDOLPH,

Petitioner,

vs.

JAMES A. MCNEIL,

Respondent.

**ORDER ADOPTING MAGISTRATE JUDGE WHITE'S REPORT
AND CLOSING CASE**

THE MATTER was referred to the Honorable Patrick A. White, United States Magistrate Judge for a Report on Petitioner's pro se petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254. The Magistrate Judge filed a Report (D.E. No. 21), recommending that Petitioner's § 2254 petition be denied. The Court has reviewed the entire file and record and has made a *de novo* review of the issues that the Objections to Magistrate Judge White's Report present. The Objections repeat the arguments already addressed in Magistrate Judge White's well-reasoned Report.¹ Thus, after careful consideration, it is hereby:

ADJUDGED that United States Magistrate Judge White's Report (**D.E. No. 21**) is **AFFIRMED** and **ADOPTED**. Accordingly, it is

¹With regard to his first claim, Petitioner's argument focuses more on counsel's failure to object to the hearsay evidence as a violation of the Confrontation Clause. This claim has already been sufficiently addressed by Magistrate Judge White, and the Court agrees that it is meritless. *See* (D.E. No. 21 at 10-11 n.8); *see also Espy v. Massac*, 443 F. 3d 1362, 1367 (11th Cir. 2006) (finding *Crawford v. Washington*, 541 U.S. 36 (2004) does not apply retroactively). In addition, Petitioner concedes in his Objections that his fourth claim is unexhausted.

ADJUDGED that

1. Petitioner's pro se petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 is **DENIED**.

2. This Case is **CLOSED** and all pending motions are **DENIED** as **MOOT**.

DONE AND ORDERED in Chambers at Miami, Florida, this 26 day of November, 2008.



JOSE E. MARTINEZ
UNITED STATES DISTRICT JUDGE

Copies provided to:
Magistrate Judge White
All Counsel of Record
Wilbur Rudolph, pro se