

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON**

LARRY E. EALY,

Plaintiff,

- vs -

DR. JEROME SHULTE

Defendant.

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Case No. 3:09-cv-98

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District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

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**ORDER ADOPTING REPORT AND RECOMMENDATIONS**

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The Court has reviewed the Report and Recommendations of United States Magistrate Judge Michael R. Merz (Doc. #3), to whom this case was referred pursuant to 28 U.S.C. § 636(b), and noting that no objections have been filed thereto and that the time for filing such objections under Fed. R. Civ. P. 72(b) has expired, hereby ADOPTS said Report and Recommendations.

Accordingly, it is hereby ORDERED that the Petition is dismissed without prejudice for lack of exhaustion of state court remedies.

March 31, 2009.

**\*S/THOMAS M. ROSE**

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Thomas M. Rose  
United States District Judge