

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION**

ALEXANDER LARKINS,

Petitioner,

v.

CASE NO. 4:06cv111-RH/EMT

JAMES McDONOUGH,

Respondent.

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**ORDER DENYING MOTION TO DISMISS**

This matter is before the court on the magistrate judge's report and recommendation (document 24), to which no objections have been filed. Upon consideration,

**IT IS ORDERED:**

The report and recommendation is ACCEPTED and adopted as the opinion of the court. Respondent's motion to dismiss (document 17) is DENIED.

Respondent shall file his answer by October 9, 2007. This matter is remanded to

the magistrate judge for further proceedings.

SO ORDERED this 23d day of September, 2007.

s/Robert L. Hinkle  
Chief United States District Judge