

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

THOMAS MCGILL,

Petitioner,

v.

4:21cv406–WS/HTC

RICKY D. DIXON,

Respondent.

ORDER ADOPTING THE MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION

Before the court is the magistrate judge’s report and recommendation (ECF No. 35) dated May 8, 2024. The magistrate judge recommends that Petitioner’s petition for writ of habeas corpus (ECF No. 1) be granted. Respondent initially filed objections (ECF No. 43) to the report and recommendation on July 19, 2024, then filed amended/corrected objections on July 30, 2024. Petitioner has not responded to Respondent’s objections.

In her report and recommendation, the magistrate judge explained that Respondent violated the *Ex Post Facto* Clause of the United States Constitution

when—in 2016—it changed its interpretation of Florida’s 1994 gain-time statute, Florida Statute § 944.275 (1994), as well as its implementing regulation, Florida Administrative Code r. 33–11.0065, then retrospectively applied the changed interpretation to Petitioner’s sentence. The magistrate judge concluded that the state courts’ summary denial of sentencing relief to Petitioner “was contrary to, and involved an unreasonable application of, clearly established Federal law, as determined by the Supreme Court, as well as an unreasonable misapplication of the facts to the law.” ECF No. 35, pp. 1–2.

Having reviewed the matter, the undersigned (1) agrees with the magistrate judge’s well-reasoned analysis of Petitioner’s habeas corpus claim; and (2) finds Respondent’s objections to the report and recommendation unconvincing.

Accordingly, it is ORDERED:

1. Petitioner’s § 2241 petition for writ of habeas corpus (ECF No. 1) is GRANTED.

2. The Secretary of the Florida Department of Corrections (the “Department”) shall apply 4,148 gain-time credits to Petitioner’s sentence, consistent with the magistrate judge’s report and recommendation and with the Department’s pre-2016 interpretation of Florida Statute, § 944.275 (1994) and Florida Administrative Code r. 33–11.0065.

DONE AND ORDERED this 10th day of September, 2024.

s/ William Stafford
WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE