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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CURTIS A. GIBBS,

Petitioner,

v.

J.E. THOMAS,

Respondent.

1:07-cv-01563-AWI-JLT (HC)

ORDER GRANTING RESPONDENT'S SECOND
MOTION FOR EXTENSION OF TIME TO FILE
RESPONSE (Doc. 29)

60-DAY DEADLINE

ORDER DENYING PETITIONER'S MOTION
TO GRANT PETITION (Doc. 27)

Petitioner is a federal prisoner proceeding pro se in a habeas corpus action pursuant to 28 U.S.C. § 2241. On March 8, 2010, respondent filed a motion to extend time to file his response to the petition for writ of habeas corpus, citing the difficulties in obtaining trial records of Petitioner's court martial in 1990. (Doc. 29). Respondent had previously requested, and been granted, an initial extension of time on January 8, 2010, for similar reasons. (Doc. 26). On January 15, 2010, Petitioner filed a motion to grant the petition based on Petitioner's belief that Respondent had not requested an initial extension of time and had not filed an Answer. (Doc. 27).

Petitioner's motion is without merit. Respondent timely requested an initial extension of time, which was granted by the Court. Petitioner's baseless assumption that Respondent did not comply with the Court's scheduling order cannot justify any grant of relief. In any event, the Court is unaware of any case authority for granting a habeas corpus petition as a sanction against a non-complying

1 respondent. The only basis for granting a habeas corpus petition is on the merits.

2 Respondent has already requested and received one sixty-day extension of time to obtain
3 records. The Court assumes that a second sixty-day extension will afford Respondent sufficient time to
4 obtain the necessary documents and file a response to the petition and that no further extensions of time
5 will be required.

6 ORDER

7 Accordingly, it is HEREBY ORDERED that:

8 1. Respondent's motion for a second extension of time (Doc. 29), is GRANTED.

9 Respondent is granted sixty days from the date of service of this order in which to file his
10 response.

11 2. Petitioner's motion to grant petition (Doc. 27), is DENIED.

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13 IT IS SO ORDERED.

14 Dated: March 10, 2010

15 /s/ Jennifer L. Thurston
16 UNITED STATES MAGISTRATE JUDGE
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