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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

MICHAEL ROY JOHNSON,

1:10-cv-01164-SMS (HC)

Petitioner,

ORDER DENYING PETITIONER’S REQUEST  
FOR JUDGMENT AND GRANTING  
RESPONDENT’S MOTION FOR AN  
EXTENSION OF TIME TO FILE ANSWER

v.

HECTOR A. RIOS,

[Doc. 18]

Respondent.

\_\_\_\_\_  
Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. Pursuant to 28 U.S.C. § 636(c)(1), the parties have consented to the jurisdiction of the United States Magistrate Judge. Local Rule 305(b).

Petitioner filed the instant petition for writ of habeas corpus June 18, 2010 in the United States District Court for the Central District of California. On June 23, 2010, the petition was transferred to this Court.

On August 10, 2010, the Court directed Respondent to file a response to the petition. Because Respondent failed to file a timely response to the petition, the Court issued an order to show cause on October 20, 2010. Just one day later, Petitioner filed a motion for judgment on the merits.

On November 9, 2010, Respondent filed a response to the order to show cause, along with a motion for an extension of time to file an answer. In the response, Respondent’s counsel sets forth the procedure for assigning and calendaring incoming cases. Counsel declares that this

1 case was “assigned to the Parole Commission for assistance with providing documentation to  
2 support respondent’s position in its response to the § 2241 petition. [¶] Unfortunately, this matter  
3 was confused with another § 2241 petition by a petitioner who has the same last name of  
4 Johnson. At the time, our office was under the impression that only one Johnson case was open  
5 instead of two Johnson cases.”

6 Because Respondent’s counsel has demonstrated that the failure to respond to the Court’s  
7 order was inadvertent and not intentional, the Court will discharge the Order to Show Cause, and  
8 Petitioner’s motion judgment is DENIED. In addition, Respondent has demonstrated good cause  
9 for extending the time to file a response citing the failure to receive the documents necessary to  
10 prepare a response, and Respondent is granted twenty (20) days from the date of service of this  
11 order to file a response.

12  
13 IT IS SO ORDERED.

14 **Dated:** December 6, 2010

/s/ Sandra M. Snyder  
UNITED STATES MAGISTRATE JUDGE