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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

THOMAS JAMES HARRELL,)	1:11-CV-00204 AWI GSA HC
)	
Petitioner,)	ORDER DENYING PETITIONER’S
)	MOTIONS FOR DEFAULT JUDGMENT
v.)	
)	[Doc. #19]
CHARLES DANIELS, et al.,)	
)	
Respondents.)	

Petitioner is a federal prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On June 2, 2011 and June 6, 2011, Petitioner filed motions requesting default judgment for Respondent's alleged failure to comply with court orders.

DISCUSSION

Pending before the Court are Petitioner’s motions for default judgment. Petitioner complains that Respondent has failed to timely comply with the deadlines set by the Court and that Petitioner is therefore entitled to default. The Court rejects this contention. 28 U.S.C. § 2241(c)(3) provides that the writ of habeas corpus shall not extend to a prisoner unless he is “in custody in violation of the

1 Constitution or laws or treaties of the United States.” 28 U.S.C. § 2243 provides that “the court shall
2 summarily hear and determine the facts, and dispose of the matter as law and justice require.” 28
3 U.S.C. § 2243. The failure of the Government to timely comply with the deadlines set by this Court
4 does not relieve Petitioner of his burden of proof.

5 Moreover, the docket reflects that Respondent did in fact timely comply with the deadlines
6 set by the Court. On March 15, 2011, the Court set the deadline for filing a response for sixty (60)
7 days following date of service of the Order. Within the allotted time, Respondent filed a motion for
8 extension of time which this Court granted. As reflected in the docket, Respondent timely filed his
9 answer on May 19, 2011. The Court concludes that Petitioner is not entitled to default judgment.
10 Gordon v. Duran, 895 F.2d 610, 612 (9th Cir.1990); see also Bleitner v. Welborn, 15 F.3d 652, 653
11 (7th Cir. 1994) (Respondent’s failure to timely respond to petition does not entitle Petitioner to
12 default.).

13 **ORDER**

14 Accordingly, IT IS HEREBY ORDERED that Petitioner’s motions for default judgment are
15 DENIED.

16
17 IT IS SO ORDERED.

18 Dated: June 7, 2011

19 
20 CHIEF UNITED STATES DISTRICT JUDGE