

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Christine M. Arguello**

Civil Action No. 08-cv-00484-CMA-KLM

DWIGHT D. DAVIS,

Plaintiff,

v.

MICHAEL ARRELLANO, Warden, AVCF, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Defendants.

ORDER OVERRULING PETITIONER'S SEPTEMBER 28, 2009 OBJECTION

The Court has reviewed the record and Petitioner's September 15, 2009 letter (Doc. # 65) objecting to Magistrate Judge Kristen L. Mix's August 24, 2009 Order (Doc. # 60) directing Petitioner to file his traverse on or before October 9, 2009, finding that a November 1, 1993 transcript tendered by Respondents is complete, and denying any further extensions of time. For the below-stated reasons, the Court overrules Petitioner's objections and Magistrate Judge Mix's August 24, 2009 Order will be enforced.

On July 10, 2009, pursuant to the Court's Order and Applicant's request, Respondent sent a majority of paper transcripts to Applicant via Fed Ex. Applicant sought these transcripts to refute statements made by Respondent in its Response to Petition for Writ of *Habeas Corpus* (Doc. #24). Respondent previously issued these transcripts in CD form. Because of Applicant's limited ability to access laptops, he sought leave of court to obtain paper copies of the transcripts, as well as an extension

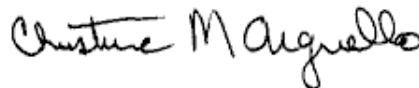
of time to file his traverse. The transcripts are from various post-conviction hearings in 1993 and 2004. Applicant contends that the transcript from a November 1, 1993 hearing is incomplete and that a transcript from a July 27, 2004 hearing was missing. Magistrate Judge Mix reviewed the November 1, 1993 transcript and, in her August 24 Order, concluded that it was complete.

In sum, Applicant has had adequate time to review the transcripts and prepare his traverse, despite any delays or difficulty in accessing a laptop. A majority of the paper transcripts he needs were sent to him on July 10, 2009. The last transcript was sent to him on September 2, 2009. Further, Applicant obviously accessed a laptop when he prepared his September 15, 2009 letter to the Court. Applicant should be able to meet the October 9, 2009 deadline without undue burden. It is therefore

ORDERED that Petitioner's September 15, 2009 letter (Doc. # 65) objecting to Magistrate Judge Mix's August 24, 2009 Order (Doc. # 60) directing Petitioner to file his traverse on or before October 9, 2009, finding that a November 1, 1993 transcript tendered by Respondents is complete, and denying any further extensions of time is OVERRULED and Magistrate Judge Mix's August 24, 2009 Order will be enforced.

DATED: October 9, 2009

BY THE COURT:



CHRISTINE M. ARGUELLO
United States District Judge