

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-03203-GPG

KENNETH GREEN,

Applicant,

v.

MICHAEL MILLER, Warden Crowley County Correctional Facility, and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

ORDER TO FILE SUPPLEMENT TO PRE-ANSWER RESPONSE

As part of the preliminary consideration of the Application for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 (ECF No. 1) filed in this action November 25, 2014, the Court ordered Respondents to file a Pre-Answer Response limited to addressing the affirmative defenses of timeliness under 28 U.S.C. § 2244(d) and/or exhaustion of state court remedies. On December 24, 2014, Respondents filed a Pre-Answer Response (ECF No. 10) and on February 2, 2015, Applicant filed a Reply to Pre-Answer Response (ECF No. 14).

Respondents argue in the Pre-Answer Response that the application is barred by the one-year limitation period in 28 U.S.C. § 2244(d) and that Applicant's claims are unexhausted and procedurally defaulted. With respect to the one-year limitation period, Applicant argues in his reply that the one-year limitation period should be tolled because his medical condition impeded his ability to file a timely habeas corpus application. Respondents have not had an opportunity to address this equitable tolling argument.

Therefore, Respondents will be directed to file a supplement to the Pre-Answer Response that addresses Applicant's equitable tolling argument if Respondents wish to respond to that argument. Accordingly, it is

ORDERED that within twenty-one (21) days from the date of this Order

Respondents shall file a supplement to the Pre-Answer Response that complies with this Order if Respondents wish to respond to Applicant's equitable tolling argument. It is

FURTHER ORDERED that within twenty-one (21) days of the filing of any supplement to the Preliminary Response Applicant may file a Reply to the supplement, if he desires.

DATED February 25, 2015, at Denver, Colorado.

BY THE COURT:

s/ Gordon P. Gallagher
United States Magistrate Judge