

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

RODERICK L. ROBINSON,

Petitioner,

v.

CASE NO. 1:09-cv-00113-MP-AK

WALTER McNEIL,

Respondent.

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ORDER

This case is before the Court on Doc. 36, Respondent's motion for clarification and reconsideration of the Court's order granting respondent's motion to dismiss Petitioner's 28 U.S.C. § 2254 *habeas corpus* petition as time-barred. Doc. 34. Respondent asks the Court to reconsider the statement in the Court's order that "[i]t is undisputed that the institution where Petitioner was confined in August 2008 did not have a system for outgoing legal mail." Doc. 34 at 2 n.2. The Court finds that the motion is well-taken. The Court intended to point out in footnote 2 that, as Respondent concedes, the institution where Petitioner was confined did not have outgoing legal mail *logs*. The existence of such logs is relevant in establishing whether a petitioner timely delivered a pleading to prison authorities for filing with the court. The existence of outgoing prison mail logs makes the matter a "straightforward inquiry" that allows prison officials to "readily dispute a prisoner's assertions that he delivered the paper [for mailing] on a different date." *Houston v. Lack*, 487 U.S. 266, 275 (1988). Because no outgoing mail logs are available in this case, whether Petitioner was entitled to the benefit of the mailbox rule could not be resolved by such "straightforward inquiry."

Accordingly, it is

ORDERED AND ADJUDGED:

Respondent's motion for clarification and reconsideration, Doc. 36, is **GRANTED** to the extent that footnote 2 of Doc. 34 is **WITHDRAWN** and replaced with the following: "It is undisputed that the institution where Petitioner was confined in August 2008 did not have an outgoing legal mail log. *See Houston v. Lack*, 487 U.S. 266, 275 (1988) (noting that reference to prison mail logs generally makes the date of prisoner court filings 'a straightforward inquiry')." "

DONE AND ORDERED this 29th of June, 2010

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge