

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

TED SMITH,

Petitioner,

v.

CASE NO. 1:11cv265-MP-GRJ

STATE OF FLORIDA, and
PAM BONDI, Florida Attorney General,

Respondents.

ORDER

This matter is before the court on petitioner's Objection to Magistrate Order Dated February 7, 2012, which is construed as a motion for reconsideration.¹ (Doc. 20). On February 2, 2012, the magistrate judge entered an order granting the respondents' motion for extension of time to respond to petition for habeas corpus. Respondents requested an extension of time to respond to the habeas petition because the July 21, 2011, evidentiary hearing, placing the petitioner in custody under an order of commitment, was never transcribed. The magistrate judge's order directed respondents to file an answer or other pleading on or before March 5, 2012, and granted petitioner until April 4, 2012, to file a reply, if desired. On February 6, 2012, petitioner filed a motion to dismiss (curtail) state's motion of continuance - due to a procedural bar, which the magistrate judge denied. Petitioner now objects to the magistrate judge's denial of that motion, pursuant to Rule 72 of the Federal Rules of Civil Procedure.

Under Rule 72 of the Federal Rules of Civil Procedure, a party may serve and file objections to a magistrate judge's order on a non-dispositive matter within 14 days after being served with a copy. The district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.

¹ Petitioner seeks a *de novo* [review] of the magistrate judge's order denying petitioner's motion to dismiss the respondents' request for extension of time to respond to the habeas petition.

Upon consideration of the magistrate judge's order (doc. 16) and petitioner's timely filed objections (doc. 17), I have determined that the order is neither clearly erroneous nor contrary to law.

Accordingly, it is now **ORDERED** as follows:

1. Petitioner's objections to the magistrate judge's order seeking reconsideration (doc. 20) is DENIED.
2. The magistrate judge's order (doc. 16) is affirmed.
3. Should petitioner desire to file a reply to respondent's answer, it shall be due April 4, 2012.

DONE and ORDERED this 28th day of February, 2012.

s/ M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE