

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

KEVIN LYONS,

Petitioner,

v.

CASE NO. 4:07-cv-00369-MP-WCS

JAMES MCDONOUGH,

Respondent.

ORDER

This matter is before the Court on Doc. 15, Report and Recommendation of the Magistrate Judge, which recommends that Respondent's Motion to Dismiss, Doc. 12, be denied. The Magistrate issued the Report on Thursday, November 13, 2008. The parties have been furnished a copy of the Report and have been afforded an opportunity to file objections. Respondent has filed an objection at Doc. 16. Pursuant to Title 28, United States Code, Section 636(b)(1), this Court must make a *de novo* review of those portions to which an objection has been made. In this instance, Respondent does not object to the Magistrate's conclusion that Respondent's Motion to Dismiss, Doc. 12, is without merit--a conclusion with which the Court agrees. Instead, Respondent objects only to the Magistrate's recommendation that it be required to file an answer within 15 days of the date the Court enters an order adopting the Report. Respondent insists in its objection that it is understaffed and would be unable to comply with any such order. Respondent also argues that a 15-day deadline would amount to an unwarranted sanction and asks that the Court provide at least 60 days for Respondent to file its answer.

The Court sympathizes with Respondent's position but finds that, given the delay caused

by Respondent's motion, a shorter deadline of 30 days is appropriate to protect the interests of the petitioner in this case. Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The Report and Recommendation of the Magistrate Judge, Doc. 15, is adopted in part and incorporated herein.
2. Respondent's Motion to Dismiss, Doc. 12, is DENIED.
3. Respondent is ordered to file its answer by 5:00 p.m. on Monday, January 5, 2009.

DONE AND ORDERED this 4th day of December, 2008

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge