

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

**RANDY R. WALKER, JR.,**

**Petitioner,**

vs.

**5:08cv252-RS/AK**

**WALTER MCNEIL,**

**Respondent.**

---

**ORDER**

This cause is before the Court on Petitioner's amended petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Doc. 6. Petitioner was previously granted leave to proceed IFP.

The Court has reviewed the amended petition and attachments and cannot definitively determine whether this cause has been timely filed, and thus, it believes a response is necessary. Respondent will therefore be required to file an answer or other pleading within the time set by this order. *See* § 2254 Rules 4 and 5. If an answer is filed, it shall be in compliance with § 2254 Rule 5. If a response is filed which raises a procedural argument not going to the merits, Respondents may await a ruling on that defense before filing an answer on the merits. Alternatively, Respondent may proceed directly to the merits without necessarily waiving the exhaustion requirement. *See* 28 U.S.C. §§ 2254(b)(2) and 2254(b)(3).

Petitioner may file a response to Respondent's arguments within the time set by this order, but he is not required to do so. Upon receipt of the Respondent's arguments and

Petitioner's response (if any), the court will review the file to determine whether an evidentiary hearing is required. An evidentiary hearing will not be required unless consideration of disputed evidence outside the state court record appears necessary to the court. If it is determined that an evidentiary hearing is not required, the court will dispose of the petition as justice requires pursuant to § 2254 Rule 8(a).

Accordingly, it is **ORDERED**:

That the clerk shall furnish by certified mail, return receipt requested, a copy of the amended petition for writ of habeas corpus, Document 6, and this order to Respondent and the Attorney General of the State of Florida;

Respondent shall file an answer or other pleading on or before **November 25, 2008**;

Petitioner shall have until **December 31, 2008**, to file a response, if desired.

**DONE AND ORDERED** this 18th day of September, 2008.

S/A.Kornblum  
**ALLAN KORNBLUM**  
**UNITED STATES MAGISTRATE JUDGE**