

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 09-60025-CIV-COHN/ROSENBAUM

WALTER DENDY,

Petitioner,

v.

WALTER A. McNEIL,

Respondent.

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**ORDER**

This matter is before the Court upon Petitioner Walter Dendy's Petition Under 28 U.S.C. § 2254 for Writ of *Habeas Corpus* by a Person in State Custody [D.E. 1]. The Honorable James I. Cohn referred Petitioner's Motion and the case to the Magistrate Judge for appropriate disposition or report and recommendation of all matters in the case. [D.E. 2]. During a hearing held in this matter on April 8, 2009, Respondent indicated that it wished to provide the Court with authority for the proposition that Petitioner could have or should have raised before the trial court in this case his federal basis for Petitioner's Motion to Disqualify the Court. Over no objection from Petitioner, Respondent requested and the Court granted Respondent until May 7, 2009, to file any such authority. Petitioner, in turn, shall have until May 21, 2009, to file a response, should he choose to do so. In any response filed, Petitioner shall address whether cause and prejudice may be demonstrated sufficiently to allow the Court to consider the merits of Petitioner's Petition, should the Court conclude that Petitioner's Petition is otherwise procedurally barred. Respondent, should

he so choose, may have until June 4, 2009, to reply.

**FILED AND SUBMITTED** at Fort Lauderdale, Florida, this 8<sup>th</sup> day of April, 2009.

  
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ROBIN S. ROSENBAUM  
UNITED STATES MAGISTRATE JUDGE

cc: Honorable James I. Cohn  
Counsel of Record