

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA)	
ex rel. XAVIER EDWARDS,)	
)	
Petitioner,)	
)	
v.)	No. 07 C 7196
)	
DONALD GATES, ¹ Acting Warden,)	
et al.,)	
)	
Respondents.)	

MEMORANDUM ORDER

By sheer coincidence, the November 19 deliveries to this Court's chambers included both (1) a handwritten response by habeas petitioner Xavier Edwards ("Edwards") to the earlier-filed request for an extension on behalf of the respondent Warden and (2) respondent's Answer to Edwards' petition seeking habeas relief. Although Edwards' submission indicates that he is unaware of this, in late October this Court had granted the Attorney General's request for a further extension--a grant that set a November 30 filing date and stated that no further extensions would be given. Under the circumstances, then, Edwards' opposition is moot, and this Court proceeds to consider his petition in light of the just-filed response.

This Court's review of the eight-page Answer discloses a

¹ Because Donald Gates is now the Acting Warden at Pinckneyville Correctional Center, where petitioner is in custody, Fed. R. Civ. P. 25(d) calls for his substitution as the party respondent (see also Rule 2 of the Rules Governing Section 2254 Cases in the United States District Courts).

disturbing omission from that response. Here is the relevant portion of our Court of Appeals' July 14, 2008 order that remanded the case:

We, however, discern two constitutional claims in Edwards's petition: (1) a claim of ineffective assistance of counsel and (2) a claim that the sentencing hearing resulting from the transfer-back procedure violated the Equal Protection Clause.

But the Answer submitted to this Court discusses only the second of those claims, saying nothing at all as to the assertedly ineffective assistance of Edwards' counsel.

Accordingly the Attorney General's office is ordered to file a supplement to the Answer addressing that presently unaddressed claim on or before December 10, 2008. In light of the extended time that has already been occupied in generating the current incomplete response, that supplement must be filed on or before that date--no extensions will be given.



Milton I. Shadur
Senior United States District Judge

Date: November 21, 2008