

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

WALTER J. BRZOWSKI, M292120,)
Petitioner,)
v.) Case No. 16 C 9961
MICHAEL MELVIN, Warden,)
Respondent.)

MEMORANDUM ORDER

This pro se action by Walter Brzowski (“Brzowski”), in which he has sought to invoke 28 U.S.C. § 2254 (“Section 2254”) by filing a self-prepared Petition for a Writ of Habeas Corpus (“Petition”), has inexplicably suffered the consequence of a breakdown in this District Court’s computerized record-keeping system. When Brzowski had apparently failed to respond to the motion to dismiss the Petition filed by counsel for respondent Warden Michael Melvin by the December 16 due date that this Court had set for such a response, it ordered a printout of the case docket and received the attached two-page printout dated December 19 (Ex. 1) that reflected the absence of any response by Brzowski. Accordingly this Court issued a December 23 memorandum order that granted defense counsel’s motion to dismiss based on Brzowski’s asserted failure to exhaust this still-pending state court attacks before turning to the federal courts with a Section 2254 Petition.

To this Court’s surprise, its regular review of ECF filings over the ensuing weekend disclosed that on December 12 Brzowski had in fact filed several self-prepared documents respectively captioned “Petitioner’s Cogent Response Against Defendant’s ‘Motion’” (Dkt.

No.11), “Plaintiff’s Calculation Time-Serving New Breakdown Sheet” (Dkt. No. 12), “Addendum To Support Petition for ‘I Bond’ Release” (Dkt. No. 13) and “Affidavit to Further Support Petitioner’s Need for an Expedited Habeas Corpus Discharge” (Dkt. No. 14). As the also-attached December 27 docket printout (Ex. 2) reflects, this Court’s December 23 memorandum order therefore became Dkt. No. 15.

Under the circumstances this Court vacates its December 23 memorandum order dismissing Brzowski’s Petition and this action pending further input from defense counsel. This Court orders defense counsel to file a response to Brzowski’s most recent filings (Dkt. Nos. 11 through 14) on or before January 20, 2017, after which this Court can determine the appropriate course of action to follow.

A handwritten signature in black ink, appearing to read "Milton I. Shadur".

Milton I. Shadur
Senior United States District Judge

Date: December 28, 2016

HABEAS,INTERDIST - TRANSF,KIM

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 6.1.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:16-cv-09961
Internal Use Only

Brzowski v. Illinois Department of Corrections et al
Assigned to: Honorable Milton I. Shadur
Case in other court: Illinois Central, 1:16-cv-01405
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 10/20/2016
Jury Demand: None
Nature of Suit: 530 Prisoner: Habeas
Corpus
Jurisdiction: Federal Question

Date Filed	#	Docket Text
12/07/2016	<u>10</u>	MINUTE entry before the Honorable Milton I. Shadur:Motion hearing held on 12/7/2016. Petitioner Brzowski's response to the motion to dismiss <u>8</u> is due by 12/16/2016. Status hearing set for 12/16/2016 is reset to 12/22/2016 at 08:45 AM. Respondent's counsel is to make arrangements to have petitioner available by phone.Mailed notice (clw,) (Entered: 12/07/2016)
12/01/2016	<u>9</u>	NOTICE of Motion by Brian McLeish for presentment of motion to dismiss <u>8</u> before Honorable Milton I. Shadur on 12/7/2016 at 09:15 AM. (McLeish, Brian) (Entered: 12/01/2016)
12/01/2016	 <u>8</u>	MOTION by Respondent Michael Melvin to dismiss <i>habeas petition</i> (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D) (McLeish, Brian) (Entered: 12/01/2016)
11/30/2016	<u>7</u>	ATTORNEY Appearance for Respondent Michael Melvin by Brian McLeish (McLeish, Brian) (Entered: 11/30/2016)
11/04/2016	<u>6</u>	MEMORANDUM Order: The Illinois Attorney General's Office is ordered to file an answer to the Petition on or before December 9, 2016 (see Section 2254 Rule 5). Status hearing set for 12/16/2016 at 09:00 AM. Signed by the Honorable Milton I. Shadur on 11/4/2016:Mailed notice(clw,) (Entered: 11/04/2016)
11/03/2016	<u>5</u>	ORDER Signed by the Honorable James E. Shadid on 10/20/2016.(mr,) (Entered: 11/03/2016)
10/24/2016	<u>4</u>	MAILED Rule 83.15 Letter to all parties of record. (mr,) (Entered: 10/24/2016)
10/24/2016	 <u>3</u>	RECEIVED from Illinois Central; Case Number 1:16-cv-01405. (mr) (Entered: 10/24/2016)

Ex. 1-1

10/20/2016		Case transferred to the NDIL. This case is terminated. (RK, ilcd) [Transferred from Illinois Central on 10/24/2016.] (Entered: 10/20/2016)
10/20/2016		(Court only) *** Set Transfer Flag (RK, ilcd) [Transferred from Illinois Central on 10/24/2016.] (Entered: 10/20/2016)
10/19/2016	<u>2</u>	AFFIDAVIT to Further Support Plaintiff's Need for Habeas Corpus Expedited Discharge re <u>1</u> PETITION for Writ of Habeas Corpus by Walter J Brzowski. (RK, ilcd) [Transferred from Illinois Central on 10/24/2016.] (Entered: 10/19/2016)
10/19/2016	<u>1</u>	PETITION for Writ of Habeas Corpus Pursuant to 28 USC Section 2254, filed by Walter J Brzowski. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Notice of Filing)(RK, ilcd) [Transferred from Illinois Central on 10/24/2016.] (Entered: 10/19/2016)

Ex. 1-2

HABEAS,INTERDIST - TRANSF,KIM,TERMED

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 6.1.1 (Chicago)
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Date Filed: 10/20/2016
Date Terminated: 12/23/2016
Jury Demand: None
Nature of Suit: 530 Prisoner: Habeas
Corpus
Jurisdiction: Federal Question

Petitioner**Walter J Brzowski**

represented by **Walter J Brzowski**
M-29120
Pontiac-PON
PO Box 99
Pontiac, IL 61764
PRO SE

V.

Respondent**Illinois Department of Corrections****Respondent****Michael Melvin***Warden*

represented by **Brian McLeish**
Illinois Office of the Attorney General
100 W. Randolph St.
Chicago, IL 60601
(312) 814-3692
Email: bmcleish@atg.state.il.us
ATTORNEY TO BE NOTICED

Service List

represented by **Chief of Criminal Appeals**
Attorney General's Office
100 West Randolph - 12 Floor
Chicago, IL 60601
Email: NDILECF@atg.state.il.us

**Prisoner Correspondence 10 - Internal
Use Only**

Ex. 2-1

Email: ilnd_PC10@ilnd.uscourts.gov
 TERMINATED: 11/07/2016

Date Filed	#	Docket Text
10/19/2016	<u>1</u>	PETITION for Writ of Habeas Corpus Pursuant to 28 USC Section 2254, filed by Walter J Brzowski. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Notice of Filing)(RK, ilcd) [Transferred from Illinois Central on 10/24/2016.] (Entered: 10/19/2016)
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10/20/2016		(Court only) *** Set Transfer Flag (RK, ilcd) [Transferred from Illinois Central on 10/24/2016.] (Entered: 10/20/2016)
10/20/2016		Case transferred to the NDIL. This case is terminated. (RK, ilcd) [Transferred from Illinois Central on 10/24/2016.] (Entered: 10/20/2016)
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Fy. 2-2

12/12/2016	<u>11</u>	COGENT RESPONSE Against Defendant's "Motion" by Petitioner Walter J Brzowski (Attachments: # <u>1</u> Notice of Motion); Notice. (Exhibits) (ph,) (Entered: 12/23/2016)
12/12/2016	<u>12</u>	PLAINTIFF'S Calculation time-serving new breakdown sheet by Walter J Brzowski. (Exhibits) (ph,) (Entered: 12/23/2016)
12/12/2016	<u>13</u>	ADDENDUM to support Petition for "I-Bond" Release by Walter J Brzowski. (Exhibits) (ph,) (Entered: 12/23/2016)
12/12/2016	<u>14</u>	AFFIDAVIT to further support Petitioner's need for expedited habeas corpus discharge (Attachments: # <u>1</u> Notice of Motion); Notice. (Exhibits) (ph,) (Entered: 12/23/2016)
12/23/2016	<u>15</u>	MEMORANDUM Order Signed by the Honorable Milton I. Shadur on December 23, 2016. Mailed notice (ph,) (Entered: 12/23/2016)
12/23/2016		***Civil Case Terminated. (ph,) (Entered: 12/27/2016)

Ex 2-3