

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

**RICKY A. BENNETT (#419642)**

**CIVIL ACTION**

**VERSUS**

**N. BURL CAIN, WARDEN**

**NO. 10-0131-FJP-DLD**

**ORDER**

Considering the Order of the District Judge, referring this matter to the undersigned Magistrate Judge for reconsideration in light of the petitioner's Objection to the Magistrate Judge's Report and Recommendation, the Court finds it appropriate for the Respondent to address the substantive merit of the petitioner's claim. Specifically, it appears that the petitioner's argument -- that his application for habeas corpus relief in this Court is not time-barred because he submitted his application for filing on the next day after an intervening weekend, federal holiday and Court-directed closing of the Clerk's Office -- has likely merit. See Fed. R. Civ. P. 6(a)(1) and (3). Cf., De Guzman v. NIH, 2009 WL 2228397 (D. Md., July 23, 2009) (finding that Court-ordered closing of Clerk's Office on the day after Thanksgiving extended the limitations period to the following Monday); Franck v. Hubbard, 2008 WL 755925 (S.D. Cal., March 18, 2008) (same); Robertson v. Abramajtys, 144 F.Supp.2d 829 (E.D. Mich. 2001) (same). Accordingly,

**IT IS ORDERED** that, within thirty (30) days of the date of this Order, the District Attorney for the Nineteenth Judicial District for the Parish of East Baton Rouge, State of Louisiana, shall file a supplemental response, addressing the timeliness of the petitioner's application (if warranted) and addressing the substantive merit of the petitioner's application.

**IT IS FURTHER ORDERED** that, to the extent that the entire state court record, including proceedings conducted before the appellate courts, was not included with the original filing of the state court record herein, the District Attorney shall ensure that a certified copy of the entire state

court record is filed in this proceeding, within thirty (30) days of the date of this Order, in accordance with the Court's Order of March 24, 2010, rec.doc.no. 3.

Signed in Baton Rouge, Louisiana, on January 3, 2011.



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**MAGISTRATE JUDGE DOCIA L. DALBY**