

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

ANDREW J. FREEMAN,	)	
	)	
Petitioner,	)	
	)	
v.	)	1:16-cv-00523-JAW
	)	
STATE OF MAINE,	)	
	)	
Respondent.	)	

**ORDER OVERRULING OBJECTION**

On January 12, 2017, Andrew J. Freeman filed a motion for a thirty day extension within which to prepare and file an amended § 2254 petition. *Pet'r[s] Mot./Req. for Thirty (30) Days Extension Within Which to Prepare and File an Amended Pet.* (ECF No. 11). On January 12, 2017, Randall Liberty, the Respondent, filed an objection to the motion to extend time. *Respondent's Resp. to Pet'r's Mot. to Extend Time to File a Mot. to Amend Pet.* (ECF No. 12). On January 30, 2017, the Magistrate Judge granted in part and denied in part his motion. *Order Granting in Part and Denying In Part Mot. to Extend Time for 30 Days to File an Amended Petition* (ECF No. 13). The Magistrate Judge allowed Mr. Freeman until March 1, 2017 to file a motion for leave to file an amended petition. *Id.* On February 21, 2017, Mr. Freeman filed an objection to the Magistrate Judge's January 12, 2017 Order. *Obj. to Judge[']s Order Dated 30 Jan. 2017* (ECF No. 14). The Respondent has indicated to the Clerk's Office that he does not intend to respond to the objection.

As the Magistrate Judge's orders address a non-dispositive matter, the standard by which this Court must evaluate the Magistrate Judge's ruling is whether

it is “clearly erroneous or is contrary to law.” FED. R. CIV. P. 72(a); 28 U.S.C. § 636(b)(1)(A). The Court reviewed the Magistrate Judge’s Order dated January 30, 2017 and notes that the Magistrate Judge actually gave Mr. Freeman more time than he had requested. Mr. Freeman asked for thirty days from January 12, 2017, but the Magistrate Judge extended the time to March 1, 2017. Mr. Freeman is not in a position to object to being allotted more time than he requested.

There is a second aspect to the Magistrate Judge’s ruling. In Mr. Freeman’s motion, he asked to be allowed simply to file an amended complaint. *Pet’r’s Mot.* at 1. The Magistrate Judge was careful to allow Mr. Freeman until March 1, 2017 to file a motion to amend his complaint. In other words, Mr. Freeman would have to justify the amendment before the Court allowed it. This part of the Magistrate Judge’s Order is entirely in keeping with the practice of this Circuit which—in accordance with Federal Rule of Civil Procedure 15(a)(2)—requires that once an opposing party has filed a response and in the absence of consent of the opposing party, leave of court is required before any amendment to a pleading may be filed. FED. R. CIV. P. 15(a)(2) (“In all other cases, a party may amend its pleading only with the opposing party’s written consent or the court’s leave”).

Applying the legal standards, the Court concludes that the Magistrate Judge’s January 30, 2017 Order is neither clearly erroneous nor contrary to law.

The Court **OVERRULES** Andrew J. Freeman’s Objection to Judge[']s Order Dated 30 January 2017 (ECF No. 14) and **AFFIRMS** the Magistrate Judge’s Order

Granting in Part and Denying in Part Motion for Extension of Time to File Amended  
Petition (ECF No. 13).

SO ORDERED.

/s/ John A. Woodcock, Jr.  
JOHN A. WOODCOCK, JR.  
UNITED STATES DISTRICT JUDGE

Dated this 1st day of March, 2017