

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DEMETEILUS GREENE,

Petitioner,

V.

Case No. 04-73926

PAUL RENICO,

Respondent.

**ORDER DENYING PETITIONER'S
MOTION FOR DEFAULT JUDGMENT**

This matter is before the court on Petitioner's motion for default judgment in this re-opened habeas case. Petitioner asserts that Respondent has failed to timely file an answer to his pending petition for a writ of habeas corpus. It is well-established, however, that a default judgment is unavailable in a federal habeas proceeding under 28 U.S.C. § 2254 on the ground that state officials failed to file a timely response to the petition. *See, e.g., Allen v. Perini*, 424 F.2d 134, 138 (6th Cir. 1970). Furthermore, on April 13, 2010, the court granted Respondent's motion for an extension of time allowing Respondent until May 29, 2010, to file an answer to the habeas petition. Respondent filed an answer on May 28, 2010, in compliance with the court's order. Petitioner's motion thus lacks merit and must be denied.

Accordingly,

IT IS ORDERED that Petitioner's motion for default judgment [Dkt. # 22] is
DENIED.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: June 16, 2010

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, June 16, 2010, by electronic and/or ordinary mail.

S/Lisa G. Wagner
Case Manager and Deputy Clerk
(313) 234-5522