

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MOHAMMED AL-KHALIL,

Petitioner,

CIVIL ACTION NO. 08-CV-10987-DT

VS.

DISTRICT JUDGE NANCY G. EDMUNDS

SUSAN DAVIS,

MAGISTRATE JUDGE MONA K. MAJZOUB

Respondent.

**OPINION AND ORDER DENYING WITHOUT PREJUDICE PETITIONER'S
MOTIONS FOR EVIDENTIARY HEARING AND ORAL ARGUMENT**

This matter comes before the Court on Petitioner's Motion for an Evidentiary Hearing and Motion for Oral Argument on his state habeas petition. (Docket nos. 6, 7). Respondent opposes these motions. (*Id.*). This matter has been referred to the undersigned for decision. (Docket no. 10).

It is within a district court's discretion to determine whether a habeas petitioner is entitled to an evidentiary hearing. *Brofford v. Marshall*, 751 F.2d 845, 853 (6th Cir. 1985). An evidentiary hearing is not required where the record is complete or if the petition raises only legal claims that can be resolved without the taking of additional evidence. *Ellis v. Lynaugh*, 873 F.2d 830, 840 (5th Cir. 1989); *David v. Woods*, 2009 WL 377062 (E.D. Mich. Feb. 11, 2009).

At this time the Court finds that the record in this case is sufficient upon which to resolve Petitioner's claims. The Rule 5 materials consist of some 847 pages of documents. (Docket no. 9). The brief supporting the habeas petition is over 70 pages long and to that are attached numerous exhibits. (Docket no. 1). Respondent has submitted a lengthy Response brief. (Docket no. 5). However, Petitioner's motions will be reconsidered if following its review of the record the Court

determines that an evidentiary hearing is required or that oral argument would facilitate decision-making in this case.

IT IS THEREFORE ORDERED that Petitioner's Motion for an Evidentiary Hearing (docket no. 7) and Motion for Oral Argument (docket no. 6) are **DENIED WITHOUT PREJUDICE**.

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(a), the parties have a period of ten days from the date of this Order within which to file any written appeal to the District Judge as may be permissible under 28 U.S.C. 636(b)(1).

Dated: June 04, 2009

s/ Mona K. Majzoub _____
MONA K. MAJZOUB
UNITED STATES MAGISTRATE JUDGE

PROOF OF SERVICE

I hereby certify that a copy of this Opinion and Order was served upon Counsel of Record on this date.

Dated: June 04, 2009

s/ Lisa C. Bartlett _____
Courtroom Deputy