

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

CHRISTOPHER B. REED,

Petitioner,

v.

Civil No. 08-11045

Honorable John Corbett O'Meara

United States District Judge

HUGH WOLFENBARGER,

Respondent.

**ORDER DENYING PETITIONER'S MOTION TO STRIKE RESPONDENT'S ANSWER
[DKT. 18] AND MOTIONS FOR ORAL ARGUMENT [DKTS. 20 AND 21]**

Christopher Reed, ("Petitioner"), a state prisoner, filed a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On September 29, 2009, this Court entered an opinion and order holding the case in abeyance pending the completion of state post-conviction proceedings. After exhausting his state court remedies, the case was reopened by order dated August 15, 2012. The order reopening the case required Respondent to file a responsive pleading and any additional Rule 5 materials by November 12, 2012. Respondent filed its answer and the Rule 5 material on November 9, 2012.

Petitioner moves to strike Respondent's answer based on his erroneous belief that it was due on October 31, 2012. The order reopening the case specifically set November 12, 2012, as the deadline for Respondent's answer. Accordingly, the motion to strike is denied.

Petitioner also moves for oral argument on his petition. Although courts do not typically grant oral argument when a party is in custody, a court has discretion to do so. See E.D. Mich. L.R. 7.1(f)(1). As stated, Respondent's Answer and the Rule 5 materials were filed on November 9, 2012.

The Court has not yet had an opportunity to review those documents. If after reviewing those materials, as well as filings from Petitioner, the Court believes oral argument would be beneficial, then it will be scheduled. However, it would be premature to schedule oral argument at this time. Accordingly, the Court will deny the Motion for Oral Argument without prejudice. No additional Motions need to be filed with respect to this issue.

IT IS THEREFORE ORDERED Petitioner's motion to strike [dkt. 18] is **DENIED**.

IT IS FURTHER ORDERED that Petitioner's motions for oral argument [dkt. 20 and 21] are **DENIED WITHOUT PREJUDICE**.

s/John Corbett O'Meara
United States District Judge

Date: December 28, 2012

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, December 28, 2012, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager