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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

JAMES JEFFERSON KENNER, )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 JAMES BENEDETTI, *et al.*, )  
 )  
 Respondents. )  
 /

3: 08-cv-00489-ECR-RAM

**ORDER**

Petitioner, a state prisoner, is proceeding *pro se* in this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Pending before the court is respondents’ answer (ECF No. 34) and Petitioner’s Motion for Writ to Issue (ECF No. 35) contending that respondents did not file a timely answer.

The petitioner’s motion shall be denied because the Court’s record clearly shows that respondents did file an answer on December 29, 2010, within the time provided by the Court. To the extent that petitioner’s motion indicates that he did not receive a copy of the Answer, Respondents shall be required to provide petitioner with a copy and shall file an affidavit of service to that effect.

**IT IS THEREFORE ORDERED** that Petitioner’s Motion for Writ to Issue (ECF No. 35) is **denied.**

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**IT IS FURTHER ORDERED** that Respondents shall have five days from entry of this Order to serve the Answer upon petitioner and to file with the Court an affidavit or declaration attesting to such service.

**IT IS FURTHER ORDERED** that petitioner shall have thirty days from the date of service to file his reply.

DATED this 26th day of January, 2011.

  
UNITED STATES DISTRICT JUDGE