

UNITED STATES DISTRICT COURT
 DISTRICT OF NEW JERSEY

CHARLES SLAUGHTER, a/k/a	:	
UMAR M. ALI-KHAN,	:	Civil Action No. 13-2383 (MAS)
	:	
Petitioner,	:	
	:	
v.	:	MEMORANDUM OPINION AND ORDER
	:	
ANGEL SANTIAGO, et al.,	:	
	:	
Respondents.	:	

THIS MATTER comes before the Court by various motions (ECF Nos. 14, 15, 17, and 25) submitted by Petitioner, Charles Slaughter, also known as Umar M. Ali Khan (hereinafter “Petitioner”), in connection with his petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. It appearing that:

1. On April 18, 2013, Petitioner, Charles Slaughter, also known as Umar M. Ali-Khan, filed a petition *pro se* seeking habeas relief under 28 U.S.C. § 2254. (ECF No. 1.)
2. On October 24, 2013, this Court issued an Order directing Respondents to answer the petition. (ECF No. 12.)
3. On December 23, 2013, Petitioner filed a motion for an evidentiary hearing, together with a proposed Order for a subpoena *duces tecum* and a subpoena *ad testificandum* to be served upon Respondents by the U.S. Marshals. (ECF No. 14.)
4. On January 10, 2014, Petitioner filed a motion for a judgment of default against Respondents for failure to respond to the motion for an evidentiary hearing and the order for a subpoena *duces tecum* and a subpoena *ad testificandum*. (ECF No. 15.)

5. On February 18, 2014, Petitioner filed another motion for a judgment of default against Respondents for failure to respond to the motion for an evidentiary hearing and the order for a subpoena *duces tecum* and a subpoena *ad testificandum*. (ECF No. 17.)

6. On May 2, 2014, Petitioner wrote to the Court requesting that his motions be ruled upon as soon as possible. (ECF No. 19.)

7. In light of Petitioner's May 2, 2014 letter, the Court discerned that a summons had not been issued with the October 24, 2013 Order directing Respondents to answer the habeas petition. Accordingly, on May 21, 2014, a summons was issued by the Clerk of the Court for service of the petition and the October 24, 2013 Order directing Respondents to file an answer to the petition. (ECF No. 20.)

8. On June 16, 2014, counsel for Respondents requested an additional three months, until September 20, 2014, to answer the petition and provide the state court record. (ECF No. 24.)

9. On June 20, 2014, Petitioner filed another motion for a judgment of default against Respondents for failure to respond to the motion for an evidentiary hearing and order for subpoena *duces tecum* and subpoena *ad testificandum*, as well as failure to respond to the summons issued on May 21, 2014. (ECF No. 25.)

10. On June 30, 2014, this Court issued a Memorandum Opinion and Order extending the time for Respondent to answer the petition, until July 31, 2014. (ECF No. 28.) The Order did not address Petitioner's motion for an evidentiary hearing (ECF No. 14).

11. On July 29, 2014, Respondents filed an answer to the habeas petition, together with a copy of the relevant state court record. (ECF No. 29.)

12. The Court finds that Petitioner's motion for an evidentiary hearing and the order for a subpoena *duces tecum* and subpoena *ad testificandum* (ECF No. 14) were never served on

Respondents. For this reason, Petitioner's motions for a judgment of default against Respondents for failure to respond to the motion for an evidentiary hearing and order for subpoena *duces tecum* and subpoena *ad testificandum* (ECF Nos. 15, 17, and 25) are denied.

13. Further, Petitioner's motion for an evidentiary hearing (ECF No. 14) is denied without prejudice as premature because it was not served on Respondents. The Clerk of the Court will be directed to serve the motion papers docketed at ECF No. 14 upon Respondents by regular mail. Respondents shall file a response or opposition to Petitioner's motion no later than August 29, 2014, and Petitioner shall file a reply thereto no later than September 19, 2014.

THEREFORE, for the reasons set forth above,

It is on this 31st day of July, 2014,

ORDERED that Petitioner's motions for a judgment of default against Respondents for failure to respond to the motion for an evidentiary hearing and the order for a subpoena *duces tecum* and a subpoena *ad testificandum*, and to the habeas petition (ECF Nos. 15, 17, and 25), are hereby DENIED; and it is further

ORDERED that Petitioner's motion for an evidentiary hearing and for an order for a subpoena *duces tecum* and a subpoena *ad testificandum* (ECF No. 14) is DENIED WITHOUT PREJUDICE as premature at this time; and it is further

ORDERED that the Clerk of the Court shall serve a copy of Petitioner's motion (ECF No. 14) upon Respondents by regular mail; and it is further

ORDERED that Respondents shall file a response and/or opposition to Petitioner's motion for an evidentiary hearing (ECF No. 14) no later than **August 29, 2014**; and it is further

ORDERED that Petitioner shall file a reply to Respondents opposition no later than **September 19, 2014**; and it is further

ORDERED that the Clerk shall serve this Order upon Respondents by electronic filing,
and upon Petitioner by regular mail.



MICHAEL A. SHIPP
United States District Judge