

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GENE GILBERT ELLIS III,

Petitioner,

vs.

No. 2:18-CV-00012-JCH-KRS

RAYMOND SMITH, Warden, and
ATTORNEY GENERAL STATE OF
NEW MEXICO,

Respondents.

ORDER GRANTING MOTIONS FOR EXTENSION OF TIME TO FILE OBJECTIONS

THIS MATTER is before the Court on Petitioner Gene Gilbert Ellis III's Motion for Additional Time to Object to the Proposed Findings and Recommended Disposition addressing his habeas corpus petition (Doc. 39), and on Ellis's "Motion to Provide Supplemental Information," which requests the same relief (Doc. 38). The Court will grant the motions as provided.

Ellis is a pro se prisoner seeking habeas relief pursuant to 28 U.S.C. § 2254. (*See* Doc. 1). The undersigned entered the Proposed Findings and Recommended Disposition ("PFRD") concerning Ellis's habeas claims on February 23, 2021. (*See* Doc. 34). The undersigned notified the parties that objections to the PFRD were due within 14 days and that any request for extension of time to file objections must be filed within 7 days. (*See id.* at 28).

In a motion dated March 10, 2021 and postmarked the next day, Ellis stated that he had only received the PFRD on March 9 due to a facility transfer, and he requested additional time to prepare and file objections. (*See* Doc. 36). On March 24, 2021, the Court entered an order affording Ellis an additional 30 days—until April 23, 2021—to file any objections. (Doc. 37).

In the present motions, which are dated April 22, 2021 but postmarked April 27, 2021, Ellis states that he was placed in restrictive housing on April 11 and was only released from that unit on April 22. (*See* Docs. 38 & 39). As grounds, Ellis claims he was denied writing materials and legal paperwork during his time in restrictive housing. (*See id.*). Respondents do not oppose Ellis's request for additional time to file objections. (Doc. 40).

The Court notes that in the purported 43 days between Ellis's receipt of the PFRD and his filing of the instant motions, only 11 of those days were allegedly spent in restrictive housing. Ellis does not explain what, if any, steps he took to prepare objections during the 32 days prior to his assignment to restrictive housing. Since that period was already well over double the time traditionally allowed for parties to file objections, *see* 28 U.S.C. § 636(b)(1), and since Ellis does not request a specific time period for his extension, the Court presumes that Ellis is near completion of any objections that he intends to file. Accordingly, only a brief additional extension will be afforded to him.

IT IS, THEREFORE, ORDERED that Petitioner Gene Gilbert Ellis III's Motion for Additional Time to Object (Doc. 39) and Motion to Provide Supplemental Information (Doc. 38) are **GRANTED**. Ellis's objections, if any, to the pending PFRD are due by **May 7, 2021**. **No further extensions of time will be granted.**



KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE