

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:08cv584

RONNIE OCTAVIOUS EDWARDS, )  
)  
Petitioner, )  
)  
v. )  
)  
HERBERT JACKSON, Supt., )  
)  
Respondent. )  
\_\_\_\_\_)

ORDER and NOTICE

THIS MATTER comes before the Court on Respondent’s Motion for Summary Judgment. (Doc. No. 5).

Respondent’s Motion for Summary Judgment is accompanied by a Supporting Brief and other documentary support. (Doc. No. 6). Although Petitioner already has filed a response to Respondent’s Motion for Summary Judgment (Doc. No. 8), that response was not accompanied by any documentary support as would be necessary to rebut Respondent’s evidentiary forecast. Thus, in accordance with Roseboro v. Garrison, 528 F.2d 309 (4<sup>th</sup> Cir. 1975), the Court advises Petitioner, who is proceeding pro se, of the heavy burden that he carries in responding to Respondent’s Motion for Summary Judgment.

Rule 56(e)(2), Federal Rules of Civil Procedure, provides:

When a motion for summary judgment is properly made and supported, an opposing party may not rely merely on allegations or denials in its own pleading; rather, its response must - by affidavits or as otherwise provided in this rule - set out specific facts showing a genuine issue for trial. If the opposing party does not so respond, summary judgment should, if appropriate, be entered against the adverse party.

This language means that if Petitioner has any evidence to offer to show that there is a

genuine issue for trial, he must now present it to this Court in a form which would otherwise be admissible at trial, that is, in the form of affidavits or sworn declarations. An affidavit is a written statement, made on personal knowledge and sworn before a notary public. A sworn declaration, made and signed under the penalty of perjury, may also be submitted. Affidavits or sworn statements must be presented by Petitioner to this Court within thirty (30) days of the entry of this Order. As stated by Rule 56(e)(2), Petitioner's failure to respond may result in granting summary judgment to Respondent, that is, the dismissal of the Petition for Writ of Habeas Corpus with prejudice.

**IT IS, THEREFORE, ORDERED** that Petitioner has thirty (30) days from the entry of this Order to file his response, including any evidence, to Respondent's Motion for Summary Judgment.

The clerk is directed to send copies of this Order and Notice to the parties, including Ronnie Edwards, Inmate No. 0118669, Brown Creek Correctional Center, P.O. Box 310, Polkton, NC 28135.

Signed: November 16, 2010



Robert J. Conrad, Jr.  
Chief United States District Judge

