

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

EDDIE WILLIAMSON,

Petitioner,

-vs-

WARDEN, Chillicothe Correctional
Institution,

Respondent.

:

Case No. 1:08-cv-631

:

District Judge S. Arthur Spiegel
Magistrate Judge Michael R. Merz

:

DECISION AND ORDER; DATE SET FOR REPLY

This case was transferred this date to the undersigned and is before the Court on Petitioner's Motion for Default Judgment (Doc. No. 19). The record in the case shows that Petitioner is not entitled to a default judgment in that the Respondent filed a Return of Writ herein on May 11, 2009 (Doc. No. 18). Therefore the Motion is denied.

The case is also before the Court on Petitioner's "Motion Civil Rule 60(B) Voidable Process (Relief from Judgment)(Doc. No. 20). The judgment from which Petitioner seeks relief in this Motion is the criminal judgment which is the subject of the underlying habeas corpus petition. This Court has no authority to grant relief from a state criminal judgment under Fed. R. Civ. P. 60(b); its only authority to do so is under the habeas corpus statutes. Therefore, the Motion is denied. To the extent the claims made in the Motion are included in the habeas petition, they will be considered when that Petition is considered on the merits.

Pursuant to Rule 5(e) of the Rules Governing Section 2254 Cases, Petitioner may file a reply

to the Return of Writ not later than November 15, 2009.

October 14, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge