

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

KENNETH SMITH,

Petitioner,

-vs-

WARDEN, FRANKLIN MEDICAL  
CENTER

Respondent.

:

Case No. 1:12-cv-196

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District Judge Thomas M. Rose  
Magistrate Judge Michael R. Merz

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**ORDER**

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This capital habeas corpus case is before the Court on Petitioner's Third Motion to Extend the Stay of Consideration of his Lethal-Injection Claims and to Extend the Time to File his Motion for Leave to Amend his habeas Petition with Amended Lethal-Injunction Claims (Doc. No. 36). Smith seeks extension of both dates to April 13, 2015. Consistent with S. D. Ohio Civ. R. 7.3, Smith sought consent of opposing counsel which was declined. *Id.* at PageID 1058, 1068.

Smith's current extension expires October 2, 2014. See Notation Order of June 7, 2014, granting Doc. No. 35 Unopposed Motion for Extension of Time Until October 2, 2014. Under S. D. Ohio Civ. R. 7.2, the Warden's time for opposing the Renewed Motion to Modify does not expire until October 16, 2014. Assuming the Warden files on the due date, Petitioner's reply will not be due until November 3, 2014.

To protect the Warden's right to be heard on this Motion without prejudicing Petitioner's opportunity to plead, Petitioner's obligation to file an amendment or supplement to his method-of-execution claims is hereby SUSPENDED until a date to be set by the Court in ruling on the pending Motion.

September 29, 2014.

s/ **Michael R. Merz**

United States Magistrate Judge