

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

KALI S. SUNTOKE,

Petitioner,

: Case No. 2:15-cv-1354

- vs -

District Judge James L. Graham
Magistrate Judge Michael R. Merz

Warden,
Chillicothe Correctional Institution

:

Respondent.

**ORDER GRANTING IN PART AND DENYING IN PART MOTION
FOR EXTENSION OF TIME**

This habeas corpus case is before the Court on Petitioner’s Second Motion for Extension of Time to file objections to the pending Supplemental Report and Recommendations (ECF No. 86). Petitioner seeks a thirty-day extension to and including March 7, 2019, because of “counsel’s felony trial schedule, the press of preexisting commitments, and the holidays.” Counsel has purportedly complied with S. D. Ohio Civ. R. 7.3 by sending opposing counsel an email.

This habeas corpus case has been pending for almost four years. The Magistrate Judge’s Report recommending dismissal was filed August 3, 2018, and Petitioner took two extensions of time totaling over four months to file objections. The Supplemental Report was filed December 20, 2018, and Petitioner has already had six weeks to prepare objections.

The Motion is what might be called a “boot strap” motion for extension. That is, the last extension of time granted expired on February 4, 2019, and Petitioner’s counsel did not file for a further extension until 2:17 p.m. on February 5, 2019. If the Magistrate Judge denies the extension,

Petitioner is already out of time to object and thereby loses significant rights on appeal. *See United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 153-55 (1985).

Finally, the “holidays” have been over for more than a month.

Accordingly, Petitioner’s time to file objections is extended to February 11, 2019, and will not be further extended.

February 5, 2019.

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