

**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.

**DECISION AND ORDER DENYING EXTENSION OF TIME TO FILE
OBJECTIONS**

This habeas corpus case is before the Court on the *pro se* Motion of Petitioner to extend to and including March 27, 2018, his time to file objections to the Magistrate Judge's Supplemental Report and Recommendations (ECF No. 90).

Petitioner initiated this case *pro se* on April 22, 2015, by asking the Court to appoint counsel (ECF No. 1). From then through November 14, 2018, Suntoke litigated this case *pro se*. On the latter date, attorney Eric Allen entered his appearance, well after the Magistrate Judge had filed an initial Report and Recommendations on the merits on August 3, 2018 (ECF No. 70). After two extensions of time, Mr. Allen filed Objections on Mr. Suntoke's behalf, Judge Graham recommitted the case, and the undersigned filed the Supplemental Report on December 20, 2018 (ECF No. 80). Mr. Allen filed two motions for extension, the second of which was only granted in part because of the manner in which it was made (ECF No. 87). When Allen had filed no

objections by the deadline, District Judge Graham adopted the Supplemental Report and dismissed the case on February 14, 2019.

Proceeding once again *pro se*, Petitioner seeks another five weeks to file Objections. He asserts he never received a copy of the Supplemental Report “either from the attorney or this Court and was totally unaware till very recently of the same.” (ECF No. 90, PageID 2285). He alleges difficulties communicating with his attorney and “humbly requests this Court to request the Clerk to send Petitioner copies of all documents filed in this Court.” *Id.* at PageID 2286.

When a litigant chooses an attorney to represent him in a case, he designates that attorney as his agent for the conduct of the case. If through negligence or application of his professional judgment, an attorney omits to do something, the client as the principal of this agent is responsible for the attorney’s actions. When Mr. Allen entered the case on behalf of Mr. Suntoke, the Court was generous with extensions of time to allow him to become familiar with the case. But when he failed to file objections by the last deadline the Court set, the Court dismissed the case.

Because judgment has already been entered the Court cannot extend the time to object. If Petitioner believes the Supplemental Report contains legal or factual error, he can file a motion to amend the judgment. **Any such motion must be filed by March 16, 2019**; the Court does not have the power to extend that time. If instead the Petitioner wishes to appeal to the Sixth Circuit Court of Appeals, that must be done by filing a notice of appeal in this Court by March 16, 2019. Because this is a habeas corpus case, Petitioner requires a certificate of appealability to appeal. This Court denied a certificate of appealability in the final judgment, so Petitioner will have to seek a certificate from the Court of Appeals. Petitioner is advised that the filing fee for an appeal is \$505. If Petitioner wishes to obtain copies of all documents filed in this case, he can do so by request to the Clerk and prepayment of the copy fee at \$.50 per page (current estimate \$1,143.00).

The Motion for Extension is DENIED. The Clerk is ordered to serve a copy of this Order on the Petitioner personally by mail.

February 20, 2019.

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