

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA

Ahmad Clarence Garland, #238267,)	Civil Action No. 4:08-1668-JFA-TER
)	
Petitioner,)	
vs.)	ORDER
)	
Warden, MacDougall Correctional)	
Institution,)	
)	
Respondent.)	
_____)	

Petitioner Ahmad Garland, a state prisoner proceeding *pro se*, seeks habeas corpus relief under 28 U.S.C. § 2254 by way of a petition filed April 21, 2008. On June 26, 2008, an order was issued authorizing service of process on the respondent by the Clerk of Court. On August 18, 2008, the respondent filed a motion for an extension of time of thirty days to respond to the petition (which was due on August 18, 2008). Petitioner then filed a request for entry of default and a motion for summary judgment on August 27, 2008.

In an order filed September 10, 2008, the respondent was directed by the court to explain in detail its August 18 motion for an extension. The respondent replied explaining that the delay and request for the extension was due to a heavy workload. Respondent also contends that the petition is barred by the statute of limitations. Petitioner objected to the motion and to the court’s order. Thus, it appears respondent’s motion for an extension of time and petitioner’s request for default are ripe for review.

The Magistrate Judge assigned to this action¹ has prepared a comprehensive Report and Recommendation wherein he recommends that petitioner's request for default and motion for summary judgment should be denied, and that respondent's motion to extend time to respond to the petition should be granted. The Report sets forth in detail the relevant facts and standards of law on this matter, and the court incorporates such without a recitation.

The petitioner was advised of his right to file objections to the Report and Recommendation. Petitioner responded by simply requesting that the court provide him a copy of the two cases cited by the Magistrate Judge in his Report and Recommendation. As the courts are not required to provide free copies to litigants, the petitioner's request is denied.

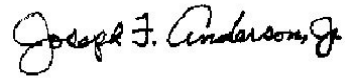
As the Magistrate Judge correctly notes in his Report, Rule 55(e) of the Federal Rules of Civil Procedure, as well as applicable case law, entry of default is not warranted against the respondent in this instance.

After carefully reviewing the applicable law, the record in this case, the Report and Recommendation, the court finds the Magistrate Judge's recommendation fairly and accurately summarizes the facts and applies the correct principles of law. The court, therefore, adopts the recommendation of the Magistrate Judge in full and incorporates this Report by specific reference.

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02. The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Accordingly, respondent's motion for an extension of time is granted and petitioner's motion for summary judgment and default judgment are denied. The Clerk shall return this case back to the assigned Magistrate Judge for further handling.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." in a cursive style.

November 3, 2008
Columbia, South Carolina

Joseph F. Anderson, Jr.
United States District Judge