

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

EARL D. PHIFFER,

ORDER

Petitioner,

10-cv-400-slc¹

v.

GREGORY GRAMS, Warden,
Columbia Correctional Institution,

Respondent.

On December 7, 2010, petitioner Earl D. Phiffer filed a motion requesting a ruling on the merits of his petition for a writ of habeas corpus, contending that respondent Gregory Grams has failed to file a timely reply to petitioner's response to respondent's answer. This motion appears to stem from the parties' confusion regarding the briefing deadlines set by the court in this case.

In an order dated September 13, 2010, dkt. #10, I directed the government to respond to petitioner's habeas petition by answer or dispositive motion. The order stated that if respondent filed an answer, petitioner was to file a brief in support of the petition

¹ For the purpose of issuing this order, I am assuming jurisdiction over this case.

within 30 days of the date of service of respondent's answer, respondent was to file a brief in opposition within 30 days of the date of service of petitioner's brief and petitioner was to have 20 days after the service of respondent's brief in which to file a reply brief. Respondent filed an answer on October 27, 2010, dkt. #15. On October 28, 2010, the court set a briefing schedule with the following deadlines: petitioner's brief in support of his habeas petition by November 29, 2010; respondent's brief in opposition by December 29, 2010; and petitioner's reply brief by January 18, 2011.

On November 3, 2010, petitioner filed what he labeled as "Petitioner['s] Response and Answer to the Respondent['s] Answer to the Petitioner['s] Amended Petition for Writ of Habeas Corpus." The court docketed this filing as petitioner's brief in support of his habeas petition. Under the deadlines set in the show cause order, respondent's brief in opposition would have been due on December 3, 30 days after petitioner filed his brief in support. However, respondent believed that the briefing schedule set on October 28 gave him until December 29, 2010 in which to file a brief in opposition no matter when petitioner filed his brief in support. Because of the understandable confusion created by the briefing schedules, I will adhere to the more recent schedule. Thus, I will address the merits of the petition when the briefing is complete according to the October 28 schedule; petitioner's present motion for a decision will be denied.

ORDER

IT IS ORDERED that petitioner Earl Phiffer's motion for a ruling on the merits of his petition for a writ of habeas corpus, dkt. #18, is DENIED.

Entered this 15th day of December, 2010.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge