

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
EASTERN DIVISION

RONNIE BRADFIELD,	)	
	)	
	)	
Petitioner,	)	
	)	
v.	)	Case No. 1:09-cv-01135-JDB-egb
	)	
	)	
STEPHEN DOTSON,	)	
	)	
Respondent.	)	

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**ORDER**

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Petitioner has filed three motions: (1) a Motion to Compel [D.E. 27] on January 25, 2010; (2) a Motion for Extension of Time to Provide His Response to Defendant's Motion to Dismiss [D.E. 32] filed on February 4, 2010; and (3) Petitioner's Motion for Leave of Court to Conduct Discovery and Appointment of Counsel [D.E. 33] filed on February 11, 2010. The District Court referred these Motions to the Magistrate Judge for determination on February 12, 2010.

Respondent objects to Petitioner's discovery and has filed his Response in Opposition to Petitioner's Motion to Compel [D.E. 29], citing inter alia the failure of Petitioner first to secure the Court's permission to use discovery. As Respondent notes, automatic discovery pursuant to Fed. R. Civ. P. 26 is not available in a federal habeas proceeding, rather, a federal habeas petitioner must

seek permission of the court to consider granting leave to seek discovery. *See* Federal Habeas Rule 6(a). Therefore, the Magistrate Judge DENIES Petitioner's Motion to Compel.

Petitioner, in an apparent effort to comply with Federal Habeas Rule 6(a), filed his Motion for Leave of Court to Conduct Discovery and Appointment of Counsel [D.E. 33]. To the extent this motion seeks permission to conduct discovery, the Magistrate Judge DENIES this Motion. While Petitioner has filed a 52-page Petition For A Writ of Habeas Corpus, his two claims are simply that he was misinformed about the date of (and missed) his parole board hearing and secondly, that he was wrongfully given a "disciplinary notice" that he was guilty of not working at a time when he was supposed to be working. It appears Petitioner has had access to the numerous documents he attaches as exhibits within his habeas petition. As Respondent points out, a Federal habeas court is not required to grant leave to seek discovery, but may for good cause. Federal Habeas Rule 6(a) largely codifies the decision of the United States Supreme Court in *Harris v. Nelson*, wherein the Court declared, "it is clear that there was no intention to extend to habeas corpus, as a matter of right, the broad discovery provisions which, even in ordinary civil litigation, were 'one of the most significant innovations' of the new rules." *Harris*, 394 U.S. 286, 295 (1969), citing *Hickman v. Taylor*, 329 U.S. 495, 500 (1947). Based on the facts of this case, the Magistrate Judge does not find good cause for the discovery requested.

The remainder of the Petitioner's Motion for Leave of Court to Conduct Discovery and Appointment of Counsel, concerns Petitioner's request for appointment of counsel. Rule 6 of the Rules Governing Section 2254 Proceedings states that an attorney must be appointed "[i]f necessary for effective discovery." Because the request for discovery is denied, appointment of counsel is not necessary and is therefore DENIED.

Finally, Petitioner has filed a Motion for Extension of Time to Provide His Response to Defendant's Motion to Dismiss [D.E. 32]. This motion was timely filed on February 4, 2010, and seeks an additional 30 days from the conclusion of discovery in which to respond. The Magistrate Judge GRANTS this Motion and allows an additional 45 days from the date of this Order in which to respond to the Respondent's Motion to Dismiss.

**IT IS SO ORDERED.**

**s/Edward G. Bryant**  
EDWARD G. BRYANT  
UNITED STATES MAGISTRATE JUDGE

Date: **February 19, 2010**

**ANY OBJECTIONS OR EXCEPTIONS TO THIS ORDER MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE ORDER. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.**