

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

CRAIG PRICE

v.

A.T. WALL

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C.A. Nos. 04-038S and 12-024S

MEMORANDUM AND ORDER

On February 11, 2004, Petitioner Craig Price (“Price”) filed a Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody.¹ At a hearing held on April 15, 2004, Magistrate Judge Lovegreen of this Court found that Price’s Petition was a mixed Petition which included unexhausted claims and permitted Price to move to stay the case while he presented his unexhausted claims in state court. Price filed a Motion to Stay on April 19, 2004 which was granted by District Judge Smith on April 30, 2004.

On December 2, 2011, the Rhode Island Supreme Court affirmed the denial of Price’s application for post-conviction relief. Price v. Wall, 31 A.3d 995 (R.I. 2011). Shortly thereafter, Price filed a second Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody which was received by the Court on or about January 13, 2012 and is described by Price as a fully-exhausted Petition. On November 1, 2012, District Judge Smith ordered the State of Rhode Island to respond to both the 2004 and 2012 Petitions. On December 10, 2012, the State responded to both Petitions with a Motion to Dismiss. Price has not yet filed a substantive response to the State’s Motion to Dismiss. Instead, he has sought several extensions of time and has twice moved unsuccessfully for Appointment of Counsel. On February 6, 2013, the Court granted Price

¹ On April 28, 2003, Price’s direct appeal of his criminal contempt sentence was denied by the Rhode Island Supreme Court. State v. Price, 820 A.2d 956 (R.I. 2003).

an extension of time to respond to the State's Motion to Dismiss but denied his request for Court-appointed counsel. On March 21, 2013, Price renewed his request for appointment of counsel and sought yet another extension of time. On April 23, 2013, the Court again denied Price's request for Court-appointed counsel and granted him a final extension to May 30, 2013 to file his response to the State's pending Motion to Dismiss. (Document No. 13). On June 18, 2013, the Court received a letter from Price indicating, inter alia, that the Florida Prison Law Library Staff lost his thirty-nine page Response to the State's Motion to Dismiss when he sent it to be copied and that he was thus unable to meet the May 30, 2013 filing deadline. (Document No. 14). The letter was treated and docketed as a Motion for Further Extension of Time to Respond. On July 8, 2013, the State filed a response indicating that it had no objection to the Court granting Price "a reasonable further extension of time in which to respond." (Document No. 15).

A response to the State's Motion to Dismiss is long overdue. In deference to Price's pro se status, giving him the benefit of the doubt regarding his representation that his response was lost and absent any objection from the State, Price is granted a SECOND FINAL EXTENSION of time to submit his response. Price is ORDERED to file his response to the State's Motion to Dismiss by August 15, 2013; and the State may reply by August 31, 2013. The Court will take the State's Motion to Dismiss under advisement based on the pleadings on file by those respective deadlines.

SO ORDERED

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
July 9, 2013