

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

[NAME],

Civil Action No. X-XXCVXXX-T

Petitioner,

vs.

[NAME], Commissioner,  
Alabama Department of Corrections,  
et. al.,

Respondents

**PRETRIAL ORDER**

Based on discussions with the parties at the scheduling/case management conference held on [DATE] and for good cause, it is hereby ORDERED:

1. That the period for permitted discovery shall conclude on [DATE]
2. That the respondents shall file on or before [DATE – 2 weeks from date of order or, if discovery ordered, following conclusion of that period]<sup>1</sup> a brief which addresses all claims which the respondents contend are procedurally defaulted, explaining the nature of the alleged default.
3. That the petitioner shall file on or before [DATE – 4 weeks from

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<sup>1</sup> Because the respondents bear the burden of establishing that a procedural default has occurred, see *Gordon v. Nagle*, 2 F. 3d 385, 388 (11<sup>th</sup> Cir. 1993), the court concludes it is appropriate that the respondents file the first brief.

respondents filing] a brief which

- a. responds to the procedural default claims raised by respondents and states the petitioner's position on cause and prejudice, including whether a hearing on cause and prejudice is necessary as to any defaulted claim.
  - b. addresses the merits of ALL claims, including the need for an evidentiary hearing on specific claims.
4. That the respondents shall file on or before [DATE – 4 weeks from petitioner's filing] a brief responding
- a. to the procedural default and default hearing issues.
  - b. to the merit and merit hearing issues raised by the petitioner.
5. That the petitioner shall file on or before [DATE – 2 weeks from respondent's filing] a brief replying only to the merit and merit hearing issues addressed by the respondent.

DONE this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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United States Magistrate Judge