

0months, 2254, HABEAS, SUBMMG

**U.S. District Court
Northern District of Georgia (Atlanta)
CIVIL DOCKET FOR CASE #: 1:07-cv-01443-TWT-WEJ**

Fiek v. Burnette
Assigned to: Judge Thomas W. Thrash, Jr
Referred to: Magistrate Judge Walter E. Johnson
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 06/20/2007
Jury Demand: None
Nature of Suit: 530 Habeas Corpus
(General)
Jurisdiction: Federal Question

Petitioner

Gunther Fiek
Telfair State Prison

represented by **Gunther Fiek**
GDC #1094511
Telfair State Prison
P.O. Box 549
Helena, GA 31037-0549
PRO SE

Rodney Zell
Zell & Zell
729 Piedmont Avenue, NE
Atlanta, GA 30308
404-523-4611
Email: rodneyzell@yahoo.com
TERMINATED: 03/10/2008

V.

Respondent

Fred Burnette
*in his official capacity as Warden of
Telfair State Prison*

represented by **Jason Charles Fisher**
State of Georgia Law Department
40 Capitol Square, S.W.
Atlanta, GA 30334-1300
404-656-3331
Email: jfisher@law.ga.gov
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/20/2007	<u>1</u>	PETITION for Writ of Habeas Corpus, filed by Gunther Fiek. (Filing fee \$ 5.00 receipt number 566283.) (Attachments: # <u>1</u> Civil Cover Sheet)(epm) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 06/25/2007)
06/25/2007		Submission of <u>1</u> Petition for Writ of Habeas Corpus, submitted to Magistrate Judge Walter E. Johnson. (epm) (Entered: 06/25/2007)
06/29/2007	<u>2</u>	ORDER TO SHOW CAUSE: It is ORDERED that the clerk of court transmit a copy of the petition and this order by certified mail to respondent and the attorney general of the state of Georgia by certified mail. Respondent shall show cause within 30 days of the receipt of this order why the writ should not be granted. Signed by Magistrate Judge Walter E. Johnson on 6/29/07. (CC: Respondent & Attorney General)(klb) (Entered: 06/29/2007)
07/06/2007		Certified Mail Returned Receipt for Thurbert Baker (dr) (Entered: 07/11/2007)
07/09/2007		Certified Mail Returned Receipt from the Warden re <u>2</u> Order (dr) (Entered: 08/21/2007)
08/03/2007	<u>3</u>	<i>Answer</i> – RESPONSE to Petition for Writ of Habeas Corpus by Fred Burnette.(Fisher, Jason) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 08/03/2007)

08/03/2007	<u>4</u>	MOTION to Dismiss <i>Petition as Untimely</i> with Brief In Support by Fred Burnette. (Attachments: # <u>1</u> Brief in Support of Motion to Dismiss)(Fisher, Jason) (Entered: 08/03/2007)
08/13/2007	<u>5</u>	MOTION for Extension of Time to File Responsive Pleadings by Fred Burnette. (Fisher, Jason) (Entered: 08/13/2007)
08/13/2007	<u>6</u>	Withdrawal of Motion <u>4</u> MOTION to Dismiss <i>Petition as Untimely</i> filed by Fred Burnette filed by Fred Burnette. (Fisher, Jason) (Entered: 08/13/2007)
08/22/2007		VERBAL ORDER granting <u>5</u> Respondent's Motion for Extension of Time to file the brief in support of his answer. Respondent given 15 business days in which to file the brief or until 9/12/07. Entered by Magistrate Judge Walter E. Johnson on 8/22/07. (klb) (Entered: 08/22/2007)
09/10/2007	<u>7</u>	ANSWER to Complaint by Fred Burnette. (Attachments: # <u>1</u> Brief in Support of Answer – Response)(Fisher, Jason) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 09/10/2007)
10/26/2007	<u>8</u>	NOTICE Of Filing Exhibits (1) by Fred Burnette (Attachments: # <u>1</u> Exhibit 1 – I of IV# <u>2</u> Exhibit 1 – II of IV# <u>3</u> Exhibit 1 – III of IV# <u>4</u> Exhibit 1 – IV of IV)(Fisher, Jason) (Entered: 10/26/2007)
10/26/2007	<u>9</u>	NOTICE Of Filing Exhibits (2a) by Fred Burnette (Attachments: # <u>1</u> Exhibit 2a – I of VI# <u>2</u> Exhibit 2a – II of VI# <u>3</u> Exhibit 2a – III of VI# <u>4</u> Exhibit 2a – IV of VI# <u>5</u> Exhibit 2a – V of VI# <u>6</u> Exhibit 2a – VI of VI)(Fisher, Jason) (Entered: 10/26/2007)
10/26/2007	<u>10</u>	NOTICE Of Filing Exhibits (2b–2c) by Fred Burnette (Attachments: # <u>1</u> Exhibit 2b – I of V# <u>2</u> Exhibit 2b – II of V# <u>3</u> Exhibit 2b – III of V# <u>4</u> Exhibit 2b – IV of V# <u>5</u> Exhibit 2b – V of V# <u>6</u> Exhibit 2c – I of III# <u>7</u> Exhibit 2c – II of III# <u>8</u> Exhibit 2c – III of III)(Fisher, Jason) (Entered: 10/26/2007)
10/26/2007	<u>11</u>	NOTICE Of Filing Exhibits (2d–2e) by Fred Burnette (Attachments: # <u>1</u> Exhibit 2d – I of IV# <u>2</u> Exhibit 2d – II of IV# <u>3</u> Exhibit 2d – III of IV# <u>4</u> Exhibit 2d – IV of IV# <u>5</u> Exhibit 2e – I of IV# <u>6</u> Exhibit 2e – II of IV# <u>7</u> Exhibit 2e – III of IV# <u>8</u> Exhibit 2e – IV of IV)(Fisher, Jason) (Entered: 10/26/2007)
10/26/2007	<u>12</u>	NOTICE Of Filing Exhibits (2f–2g) by Fred Burnette (Attachments: # <u>1</u> Exhibit 2f – I of IV# <u>2</u> Exhibit 2f – II of IV# <u>3</u> Exhibit 2f – III of IV# <u>4</u> Exhibit 2f – IV of IV# <u>5</u> Exhibit 2g – I of IV# <u>6</u> Exhibit 2g – II of IV# <u>7</u> Exhibit 2g – III of IV# <u>8</u> Exhibit 2g – IV of IV)(Fisher, Jason) (Entered: 10/26/2007)
10/26/2007	<u>13</u>	NOTICE Of Filing Exhibits (3–4) by Fred Burnette (Attachments: # <u>1</u> Exhibit 3# <u>2</u> Exhibit 4)(Fisher, Jason) (Entered: 10/26/2007)
12/10/2007	<u>14</u>	MOTION for Extension of Time file response and amend petition by Gunther Fiek. (Zell, Rodney) (Entered: 12/10/2007)
01/02/2008		Submission of <u>14</u> MOTION for Extension of Time file response and amend petition, submitted to Magistrate Judge Walter E. Johnson. (dr) (Entered: 01/02/2008)
01/14/2008	<u>15</u>	MOTION for Extension of Time to file amended petition and brief, Notice of Termination of Counsel by Gunther Fiek. (dr) (Entered: 01/16/2008)
01/14/2008	<u>16</u>	MOTION to Appoint Counsel by Gunther Fiek. (dr) (Entered: 01/16/2008)
01/14/2008	<u>17</u>	AFFIDAVIT by Gunther Fiek. (dr) (Entered: 01/16/2008)
02/01/2008		Submission of <u>16</u> MOTION to Appoint Counsel, <u>15</u> MOTION for Extension of Time to file amended petition and brief, submitted to Magistrate Judge Walter E. Johnson. (dr) (Entered: 02/01/2008)
03/10/2008	<u>18</u>	ORDER denying as moot <u>14</u> Motion for Extension of Time ; granting <u>15</u> Petitioner's pro se Notice of termination of counsel and Motion for Extension of Time to file amended petition and brief. The Clerk is DIRECTED to substitute Petitioner for Mr. Zell as counsel of record herein. Petitioner has until June 20, 2008 to file additional pleadings in this case. denying <u>16</u> Petitioner's Motion to Appoint Counsel. Signed by Magistrate Judge Walter E. Johnson on 3/10/08. (klb) (Entered: 03/10/2008)

06/16/2008	<u>19</u>	MOTION for 30 day Extension of Time to file amended petition by Gunther Fiek. (dr) (Entered: 06/17/2008)
07/07/2008	<u>20</u>	NOTICE to Clerk and Court by Gunther Fiek (dr) (Entered: 07/09/2008)
07/07/2008	<u>21</u>	MOTION for Evidentiary Hearing by Gunther Fiek. (dr) (Entered: 07/09/2008)
07/07/2008	<u>22</u>	RENEWAL OF MOTION to Appoint Counsel by Gunther Fiek. (dr) (Entered: 07/09/2008)
07/07/2008	<u>23</u>	MOTION for Limited Discovery by Gunther Fiek. (dr) (Entered: 07/09/2008)
07/07/2008	<u>24</u>	Additive Amendment to <u>1</u> Petition for Writ of Habeas Corpus filed by Gunther Fiek. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2, # <u>3</u> Exhibit A, # <u>4</u> Exhibit B, # <u>5</u> Exhibit C, # <u>6</u> Exhibit D, # <u>7</u> Exhibit E, # <u>8</u> Exhibit F, # <u>9</u> Exhibit G, # <u>10</u> Exhibit H, # <u>11</u> Exhibit H continued)(dr) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 07/09/2008)
07/21/2008		Submission of <u>19</u> MOTION for Extension of Time to file amended petition, submitted to Magistrate Judge Walter E. Johnson. (dr) (Entered: 07/21/2008)
08/01/2008		Submission of <u>23</u> MOTION for Discovery, <u>21</u> MOTION for Hearing, <u>22</u> MOTION to Appoint Counsel, submitted to Magistrate Judge Walter E. Johnson. (dr) (Entered: 08/01/2008)
10/07/2008	<u>25</u>	ORDER granting (nun pro tunc) <u>19</u> Petitioner's Motion for 30 day Extension of Time. Furthermore, because petitioner has raised non-frivolous matters in his additional pleadings, Respondent is ORDERED to file a response within 30 days of the entry date of this Order, to Petitioner's remaining motions [<u>21</u> – <u>23</u>] and to the additional claims he has raised in his Additive Amendment to Habeas Petition <u>24</u> . Signed by Magistrate Judge Walter E. Johnson on 10/7/08. (klb) (Entered: 10/07/2008)
10/07/2008		Clerks Certificate of Mailing as to Gunther Fiek re <u>25</u> Order on Motion for Extension of Time, (klb) (Entered: 10/07/2008)
10/29/2008	<u>26</u>	Letter from Gunther Fiek (dr) (Entered: 10/31/2008)
11/04/2008	<u>27</u>	<i>Amended Answer</i> – RESPONSE to <u>1</u> Petition for Writ of Habeas Corpus by Fred Burnette. (Attachments: # <u>1</u> Supplement Brief in Support of Original and Amended Answer–Response)(Fisher, Jason) Please visit our website at http://www.gand.uscourts.gov to obtain Pretrial Instructions. (Entered: 11/04/2008)
11/04/2008	<u>28</u>	RESPONSE re <u>21</u> MOTION for Hearing, <u>23</u> MOTION for Discovery, <u>22</u> MOTION to Appoint Counsel filed by Fred Burnette. (Fisher, Jason) (Entered: 11/04/2008)
11/06/2008		Submission of <u>25</u> Order, submitted to Magistrate Judge Walter E. Johnson. (dr) (Entered: 11/06/2008)
12/01/2008	<u>29</u>	MOTION to Amend Ground I in Habeas Petition by Gunther Fiek. (dr) (Entered: 12/02/2008)
12/01/2008	<u>30</u>	MOTION to Amend Ground V of Habeas Petition by Gunther Fiek. (dr) (Entered: 12/02/2008)
12/01/2008	<u>31</u>	Supplemental Memorandum of Law by Gunther Fiek (dr) (Entered: 12/02/2008)
12/01/2008	<u>32</u>	Additional Argument in Support of <u>22</u> MOTION to Appoint Counsel filed by Gunther Fiek. (dr) (Entered: 12/02/2008)
12/01/2008	<u>33</u>	REPLY to <u>27</u> Response to Habeas Petition by Gunther Fiek (dr) (Entered: 12/02/2008)
12/24/2008		Submission of <u>30</u> MOTION to Amend, <u>29</u> MOTION to Amend, submitted to Magistrate Judge Walter E. Johnson. (dr) (Entered: 12/24/2008)
02/06/2009	<u>34</u>	ORDER denying Petitioner's <u>21</u> Motion for Evidentiary Hearing; denying <u>22</u> Renewed Motion to Appoint Counsel ; denying <u>23</u> Motion for Limited Discovery. Petitioner may seek review of this Order by filing objections within 10 days. Signed by Magistrate Judge Walter E. Johnson on 2/6/09. (klb) (Entered: 02/06/2009)
02/06/2009		Clerks Certificate of Mailing as to Gunther Fiek re <u>34</u> Order on Motion for Hearing, Order on Motion to Appoint Counsel and Order on Motion for Discovery, (klb)

		(Entered: 02/06/2009)
02/25/2009	<u>35</u>	OPPOSITION to <u>34</u> Order, filed by Gunther Fiek. (Attachments: # <u>1</u> Exhibit)(dr) (Entered: 02/26/2009)
02/25/2009	<u>36</u>	AFFIDAVIT in Support of <u>35</u> Opposition to Order by Gunther Fiek. (dr) (Entered: 02/26/2009)
03/23/2009	<u>37</u>	Supplement in Support of <u>35</u> Opposition to Order filed by Gunther Fiek. (Attachments: # <u>1</u> Exhibit 1, # <u>2</u> Exhibit 2)(dr) (Entered: 03/25/2009)