

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAUL CLARK, JR.,

Petitioner,

v.

Case No. 08-11016
Honorable John Corbett O'Meara

BLAINE LAFLER,

Respondent.

**OPINION AND ORDER DENYING
PETITIONER'S MOTION TO ALTER OR AMEND THE JUDGMENT**

On October 17, 2008, this Court denied Petitioner's petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2241, for failure to comply with the one-year statute of limitations set forth at 28 U.S.C. § 2244(d)(1). *See Clark v. Lafler*, No. 08-11016 (E.D. Mich. Oct. 17, 2008). Petitioner was convicted of (1) first-degree felony murder, MICH. COMP. LAWS § 750.316, and, (2) felony firearm, MICH. COMP. LAWS § 750.227b. He was sentenced to life imprisonment for the first-degree-felony-murder conviction and the mandatory two-year imprisonment for the felony-firearm conviction. Before the Court now is Petitioner's "Motion to Alter or Amend the Memorandum Opinion and Judgment Entered with Supporting Brief." (Dkt. # 9.) For the reasons stated below, the motion is denied.

A motion to alter or the amend judgment brought by a habeas petitioner pursuant to Rule 59(e) may properly be analyzed as a motion for reconsideration pursuant to Local Rule 7.1 of the Eastern District of Michigan. *Hence v. Smith*, 49 F.Supp.2d 547, 550 (E.D. Mich. 1999). Local Rule 7.1(h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly

or by reasonable implication, will not be granted. *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F.Supp.2d 628, 632 (E.D. Mich. 2001); *See also Williams v. McGinnis*, 192 F.Supp.2d 757, 759 (E.D. Mich. 2002); E.D. Mich. L.R. 7.1(g)(3). A motion for reconsideration should be granted if the movant demonstrates a palpable defect by which the court and the parties have been misled and that a different disposition of the case must result from a correction thereof. *Williams*, 192 F.Supp.2d at 759. A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F.Supp. 426, 427 (E.D. Mich. 1997).

In his motion to alter or the amend judgment, Petitioner does not deny that his habeas petition was filed untimely. However, Petitioner contends that this Court should consider his petition as a second or successive petition. The Court rejects Petitioner's argument for the reasons more fully stated in its Opinion and Order, dated October 17, 2008.

Against that backdrop, Petitioner's motion to alter or the amend judgment will therefore be denied because Petitioner is merely presenting issues which were already ruled upon by this Court, either expressly or by reasonable implication, when the Court denied his habeas petition on the ground that he had filed his habeas petition untimely.

ORDER

Accordingly,

IT IS ORDERED that Petitioner's "Motion to Alter or Amend the Memorandum Opinion and Judgment Entered with Supporting Brief" [dkt. # 9] is **DENIED**.

s/John Corbett O'Meara
United States District Judge

Date: November 7, 2008

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, November 7, 2008, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager