

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

ANTONIO SANCHEZ FRANKLIN,

Petitioner, :

Case No. 3:04-cv-187

- vs -

Magistrate Judge Michael R. Merz

NORMAN ROBINSON, Warden,

Respondent. :

DECISION AND ORDER

This capital habeas corpus case is before the Court on Petitioner's *pro se* Motion for an Expansion of Time to File his Rule 60(b) (Doc. No. 154). Petitioner represents that he needs at least another 90 days "as he's not only filing under *Martinez v. Ryan*, 132 S. Ct. 1309 (2012), but also under § (1) Claims that were denied by mistake, inadvertence, surprise, or excusable neglect." (Doc. No. 154, PageID 2184).

The case is also before the Court on Petitioner's *pro se* Motion to Clarify Record (Doc. No. 155) in which he states he never requested to file a Rule 60(b) motion *pro se* and never requested counsel merely to assist in preparing a reply memorandum in support of the Rule 60(b) motion. Instead, he says he "desires new counsel throughout the entire Rule 60(b) process." He says instead that he is not comfortable accepting the Court's suggestion that he be allowed to file a *pro se* supplement to the Rule 60(b) motion his counsel are preparing because he cannot be assured such a process will be acceptable to the Sixth Circuit Court of Appeals and the United States Supreme Court.

Petitioner's request for replacement counsel is DENIED. His current counsel have vigorously and professionally litigated this matter from its inception in this Court. Both have extensive experience in other capital habeas corpus litigation and can be trusted by both Petitioner and the Court to advocate zealously on his behalf.

Petitioner's request for extension of time is also DENIED. *Martinez v. Ryan*, 566 U.S. ___, 132 S. Ct. 1309, 182 L. Ed. 2d 272 (2012), was decided more than eighteen months ago. The Mandate of the Sixth Circuit after denial of certiorari in the Supreme Court was issued April 10, 2013, six months ago. The Judgment of this Court from which relief is sought was entered more than four years ago. There has been ample time to prepare a motion for relief from judgment.

October 11, 2013.

s/ *Michael R. Merz*
United States Magistrate Judge