

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

JOHN CLARENCE WALKER,

Petitioner,

VS.

DOUGLAS DRETKE,

Respondent.

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CIVIL ACTION NO. H-05-2392

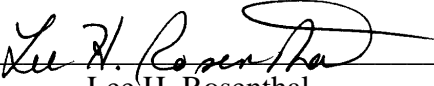
MEMORANDUM AND OPINION

The petitioner, John Clarence Walker, was convicted in Texas state court of first degree murder and received a life sentence. After an unsuccessful direct appeal and state habeas petitions, he sought federal habeas corpus relief under 28 U.S.C. § 2254, which this court dismissed as time-barred. Walker was required to file his § 2254 petition on or before October 9, 2000, to avoid being time-barred. Walker did not file his federal petition until July 5, 2005. The Fifth Circuit Court of Appeals denied a certificate of appealability in August 2007. Walker filed a Motion for Relief from Final Judgment under Rule 60(b)(4) of the Federal Rules of Civil Procedure in September 2011. He reasserts the argument he made in his § 2254 motion that it was timely filed because he was allowed to file an out-of-time PDR in the state court and this restarted the limitations period. This argument was already raised, addressed, and rejected. Walker identifies no basis in either the applicable law or the record for a different outcome. And the motion, filed over four years after the appellate court denied a certificate of appealability from the first dismissal, was not timely filed. Rule 60(c)(1) requires that a motion filed under Rule 60(b)(4) be filed within a reasonable time. He offers no explanation for why it took so long to seek reconsideration of the decision on grounds he previously

raised. *See Scheanette v. Quarterman*, 309 Fed. Appx. 870, 873, 2009 WL 301842, 2 (5th Cir. 2009).

The motion under Rule 60(b), (Docket Entry No. 28), is denied.

SIGNED on February 6, 2012, at Houston, Texas.



Lee H. Rosenthal
United States District Judge