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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Michael Ray White,)	No. CV-08-08139-PCT-SPL
)	
Petitioner,)	ORDER
)	
vs.)	
)	
Charles L. Ryan, et al.,)	
)	
Respondents.)	

Before the Court is Petitioner’s Motion to Alter or Amend Judgment. (Doc. 287.) Petitioner asks the Court to reconsider its order and judgment of July 10, 2015, which denied Petitioner’s motion for evidentiary development and his petition for habeas corpus relief. (Docs. 285, 286.) As set forth below, the motion will be denied.

I. DISCUSSION

A motion to alter or amend judgment under Rule 59(e) of the Federal Rules of Civil Procedure is in essence a motion for reconsideration. Motions for reconsideration are disfavored and appropriate only if the court is “presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law.” *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999) (per curiam) (quoting *389 Orange St. Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999)); see *School Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).

Petitioner’s motion addresses three claims. First, Petitioner requests clarification of an inconsistency in the Court’s discussion of Claim 1(B). As Petitioner notes, the order

1 contains a typographical error on page 18.¹ The sentence should read, “The Court
2 disagrees.”

3 Petitioner next argues that the Court made a clear error of law by applying the
4 wrong standard in evaluating Claim 5, which alleges Sixth and Fourteenth Amendment
5 violations based on the cumulative effect of trial counsel’s deficiencies. Petitioner argues
6 that the Court applied the incorrect standard when it noted that Petitioner had failed to
7 establish prejudice from any of counsel’s alleged deficiencies. This argument
8 mischaracterizes the Court’s ruling.

9 In noting that Petitioner’s individual claims of ineffective assistance of counsel
10 lacked merit, the Court cited *Davis v. Woodford*, 384 F.3d 628, 654 (9th Cir. 2004), in
11 which the Ninth Circuit explained:

12 It is true that, although individual errors may not rise to the
13 level of a constitutional violation, a collection of errors might
14 violate a defendant's constitutional rights. *Harris v. Wood*, 64
15 F.3d 1432, 1438 (9th Cir. 1995). The cumulative error
16 doctrine does not aid *Davis*, however, because we are not
faced with such a case. As our discussion of the ineffective
assistance claims illustrates, *Davis* has not demonstrated
prejudice as to the individual claims, and the nature of the
claims does not support a conclusion of cumulative prejudice.

17 As in *Davis*, the nature of Petitioner’s ineffective assistance of counsel claims does not
18 support a conclusion of cumulative prejudice.

19 This Court further found that counsel’s performance did not render Petitioner’s
20 trial “fundamentally unfair,” as required for relief under the cumulative error doctrine.
21 *Id.*; *Harris v. Wood*, 64 F.3d at 1438. In making this determination the Court noted the
22 strength of the State’s case and the overwhelming evidence of Petitioner’s guilt. *See*
23 *Parle v. Runnels*, 505 F.3d 922, 928 (9th Cir. 2007).

24
25
26 ¹ The passage at issue reads: “Petitioner contends that the PCR court’s denial of the
27 claim was based on an unreasonable determination of the facts and constituted an
28 unreasonable application of *Strickland*. (Doc. 273 at 50.) The Court *agrees*.” (Doc. 285 at
18) (emphasis added).

