

IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
PINE BLUFF DIVISION

GLENN WHITHAM

PETITIONER

v.

5:04CV00307-WRW

LARRY NORRIS

RESPONDENT

**ORDER**

Pending is Petitioner's Motion For New Trial, To Alter Or Amend Judgment, And For Reconsideration Or Clarification (Doc. No. 17).

Petitioner moves the Court under Federal Rule of Civil Procedure 59 to "open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new ones, and direct the entry of a new judgment" or to "alter or amend" the judgment.<sup>1</sup> Petitioner alleges that the record before the Magistrate Judge was inadequate, and included several attachments in support of his argument.<sup>2</sup> Petitioner wrote "the Magistrate Judge appeared to assert that these items were not in the record before him."<sup>3</sup>

I did not read the Magistrate Judge's recommended disposition to mean that the attachments to Petitioner's Motion were not in the record. Further, it seems to me that under the reasoning used by the Magistrate Judge in the recommended disposition, the content of the attachments would not affect the outcome of the case. Accordingly, I find there is no necessity for a hearing, and Petitioner's Motion is DENIED.

IT IS SO ORDERED this 17th day of November, 2008.

/s/ Wm. R. Wilson, Jr.  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup>Doc. No. 17.

<sup>2</sup>*Id.*

<sup>3</sup>*Id.*