

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 07-cv-00114-LTB-MEH

MACK W. THOMAS,

Applicant,

v.

JOE ORTIZ, Executive Director of D.O.C., and
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

MINUTE ORDER

Entered by Michael E. Hegarty, United States Magistrate Judge, on December 2, 2009.

Applicant's Motion to Reconsider Order [filed November 6, 2009; docket #90] is **denied**. The Applicant requests reconsideration of the Court's order denying Applicant's Motion to Stay Court Proceedings. *See* docket #89. The three major grounds that justify reconsideration are: (1) an intervening change in controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice. *See Servants of the Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). Such a motion is not an appropriate vehicle to "advance arguments that could have been raised in prior briefing." *Id.*; *see also Phelps v. Hamilton*, 122 F.3d 1309, 1324 (10th Cir. 1997).

The United States Code, 28 U.S.C. § 2251(a)(1), explicitly requires that a stay of state court proceedings must be based upon a "matter involved in the habeas corpus proceeding." In his current motion, the Applicant claims that the Court "incorrectly found that the proceeding to be stayed was a new or distinct matter from the one involved in the case." However, the information provided by the Applicant is the same as that provided in his original motion to stay – his recent conviction and incarceration arose from "probation violations"; therefore, the matter is new and not involved in the current habeas corpus proceeding. *See* October 16, 2009 Minute Order at docket #84; *see also* Applicant's "Request for Habeas Corpus due to Change of Status," docket #81 at 1. The Court finds no error in its analysis and order denying Applicant's Motion to Stay Court Proceedings.