

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00484-CMA-KLM

DWIGHT D. DAVIS,

Applicant,

v.

MICHAEL ARRELLANO, Warden, AVCF, and  
THE ATTORNEY GENERAL OF THE STATE OF COLORADO,

Respondents.

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ORDER

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ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Applicant's **Motion for Extension or Enlargement of Time** [Docket 37; Filed December 23, 2008] and **Motion to Reconsider Request for Transcripts and Record of Action** [Docket No. 38; Filed December 23, 2008]. In a November 24, 2008 Order, the Court denied Applicant's motion requesting transcripts [Docket No. 36]. I denied the motion because Applicant had not shown a "legitimate and particularized need" for the transcripts. See *United States v. Self*, 876 F.Supp. 244, 248 (D. Colo. 1995) (citing *Jones v. Superintendent*, 460 F.2d 150, 153 (4th Cir. 1972)).

The Court will grant a motion for reconsideration "to correct clear error or prevent manifest injustice." *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). The motion must be based on "arguments that were previously raised but were overlooked by the Court- '[p]arties are not free to relitigate issues that the Court has already decided.'" *Klein-Becker USA. LLC v. All Web LLC*, 2007 WL 2084337, at \*1 (D. Utah 2007)(quoting

*United States v. Jasin*, 292 F. Supp. 2d 670, 676 (E.D. Pa. 2003).

I find that the Applicant has now show a “legitimate and particularized need” for the transcripts. Pursuant to Rule 5 of the Rules Governing Section 2254 Cases, the Court may order that the Respondents furnish transcripts. Accordingly,

IT IS HEREBY **ORDERED** that the Motion to Reconsider [No. 38] is **GRANTED**.

IT IS HEREBY FURTHER **ORDERED** that within 15 days of this Order the Respondents shall provide Applicant with a copy of the transcripts detailed in his Motion to Reconsider. Respondents may either copy the transcripts at their expense and send them to Applicant, or loan the record to Applicant for his use in preparing his traverse. If the record is loaned to Applicant, he shall be supervised by an appropriate official of the correctional facility while using it.

IT IS FURTHER **ORDERED** that Applicant’s Motion for Extension or Enlargement of Time [No. 37] is **GRANTED**. Applicant shall file a traverse, if any, on or before **June 30, 2009**.

Dated: April 13, 2009