

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION**

MICHAEL McGOUGH,

Petitioner,

-vs-

Case No. 8:13-CV-1083-T-30EAJ

SECRETARY, DEPARTMENT  
OF CORRECTIONS,

Respondent.

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**ORDER**

Before the Court is Petitioner's Motion for Order Authorizing District Court to Consider Petition Under the Martinez Rule (Dkt. 18) which the Court construes as a motion to alter or amend the judgment pursuant to Rule 59(e), Fed. R. Civ. P. The motion seeks relief from the Court's October 29, 2013 Order dismissing as untimely Petitioner's 28 U.S.C. § 2254 petition for writ of habeas corpus (Dkt. 16). Petitioner timely filed the motion on November 17, 2013.<sup>1</sup>

The decision to alter or amend a judgment under Rule 59(e) "is committed to the sound discretion of the district judge." *Am. Home Assur. Co. v. Glenn Estess & Assocs.*, 763 F.2d 1237,1238-39 (11th Cir.1985). "The only grounds for granting [a Rule 59(e)] motion are newly-discovered evidence or manifest errors of law or fact." *Arthur v. King*, 500 F.3d

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<sup>1</sup>A Rule 59(e) motion "must be filed no later than 28 days after the entry of the judgment." Rule 59(e), Fed. R. Civ. P.

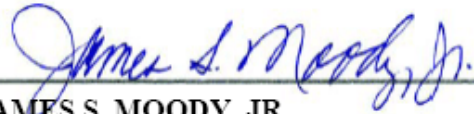
1335, 1343 (11th Cir.2007) (quoting *In re Kellogg*, 197 F.3d 1116, 1119 (11th Cir.1999)). A party seeking reconsideration must “set forth facts or law of a strongly convincing nature to induce the court to reverse its prior decision.” *Cover v. Wal-Mart Stores, Inc.*, 148 F.R.D. 294, 294 (M.D. Fla. 1993).

The Court has carefully reviewed Petitioner’s arguments, but finds that these arguments are unsupported by facts or law of a “strongly convincing nature.” Moreover, the Court is not convinced that reconsideration of the October 29, 2013 Order is necessary to correct a clear error or to prevent manifest injustice.

Accordingly, the Court **ORDERS** that:

1. Petitioner’s construed Rule 59(e) motion (Dkt. 17) is **DENIED**.
2. The Court declines to issue a certificate of appealability pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts because Petitioner has failed to make a substantial showing of the denial of a constitutional right as required by 28 U.S.C. § 2253(c)(2). And, because Petitioner is not entitled to a certificate of appealability, Petitioner is not entitled to appeal *in forma pauperis*.

**DONE** and **ORDERED** in Tampa, Florida on November 21, 2013.

  
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**JAMES S. MOODY, JR.**  
**UNITED STATES DISTRICT JUDGE**

SA:sfc  
Copy to: Petitioner *pro se*  
Counsel of Record