

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE-OPELOUSAS DIVISION**

MELVIN SIGUE

CIVIL ACTION NO. 08-101

VERSUS

JUDGE MELANÇON

RONNIE HEGGER, WARDEN

MAGISTRATE JUDGE HILL

ORDER

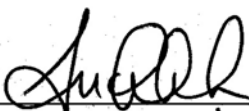
Before the Court is plaintiff's Motion for Reconsideration of Judgment entitled "Request to Proceed with the Ineffective Assistance of Counsel Claim and/or Review the Writ 'de novo'" [Rec. Doc. 8]. Having reviewed the motion and the record before the Court, it is

ORDERED that the motion is **DENIED**. The record reflects that upon his request [Rec. Doc. 3], plaintiff's ineffective assistance of counsel claim was dismissed without prejudice, on February 10, 2009 [Rec. Doc. 7], after plaintiff was fully informed of the consequences of making such request [Rec. Doc. 2], and so as to allow plaintiff to exhaust his state court remedies. The record reflects further, that plaintiff failed to object to the Court's Judgment. To the extent that plaintiff now wishes to have his claim for ineffective assistance of counsel adjudicated, he is required to file a new complaint.

Construing plaintiff's request that "he be allowed to appeal the Report and Recommendation" as a notice of appeal and motion for certificate of appealability,

the requested relief must be **DENIED** as untimely.¹ The Court's Judgment adopting the Report and Recommendation of the Magistrate Judge was entered on February 10, 2009 [Rec. Doc. 7], and plaintiff did not file the present motion until December 8, 2009.

THUS DONE AND SIGNED this 10th day of December, 2009 at Lafayette, Louisiana.



Tucker L. Melançon
UNITED STATES DISTRICT JUDGE

¹ Federal Rule of Appellate Procedure 4(a) provides, in pertinent part, that a notice of appeal "must be filed with the district clerk within 30 days after the judgment or order appealed from is entered."