

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

13-cv-2144

PATRICK W. WILLIAMS**CIVIL ACTION NO. ~~03-2144~~****VERSUS****JUDGE DOHERTY****MICHAEL C. COLWART, ET AL.****MAGISTRATE JUDGE HILL**

ORDER

Before the court is a Motion for Reconsideration filed by *pro se* plaintiff, Patrick W. Williams. [rec. doc. 24]. By this Motion, plaintiff requests that this Court reconsider its prior ruling denying plaintiff's request to issue a subpoena *ad testificandum* to Sixteenth Judicial District Court Judge Anne L. Simon for Judge Simon to testify about her role as the presiding Judge over plaintiff's 2001 state court criminal case. [rec. doc. 24]. Plaintiff alleges that this testimony is needed for him to demonstrate that his 2001 conviction was illegally obtained by an unlawfully induced plea, that he received ineffective assistance of counsel, and that his conviction constitutes double jeopardy.

For the reasons previously stated and for the reasons set forth in the Report and Recommendation of the undersigned specifically stating that this Court cannot consider plaintiff's civil rights action as a request for federal *habeas corpus* relief¹, plaintiff's request for reconsideration must be denied. Accordingly;

¹The undersigned has found that any claims challenging plaintiff's conviction must be raised by petition for *habeas corpus* relief under the provisions of 28 U.S.C. § 2254, not by a § 1983 civil rights action. However, dismissal would still nevertheless be appropriate because it is clear that any *habeas corpus* petition would be time-barred by the federal one-year limitation period set forth in 28 U.S.C. § 2244(d) and plaintiff is not entitled to equitable tolling. Finally, it does not appear that, even if the action had been timely filed, plaintiff properly or timely exhausted state court remedies. *See* rec. doc. 13.

The plaintiff's Motion for Reconsideration [rec. doc. 21] is **DENIED**.

THUS DONE AND SIGNED in Chambers at Lafayette, Louisiana, this 20th day of
September, 2013.



C. MICHAEL HILL
UNITED STATES MAGISTRATE JUDGE