

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM A. MERRIWEATHER,

Petitioner,

vs.

No. 99-cv-75306

Hon. Gerald E. Rosen

BONITA J. HOFFNER, Warden,

Respondent.

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ORDER DENYING PETITIONER'S
NUNC PRO TUNC APPLICATION

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on March 15, 2016

PRESENT: Honorable Gerald E. Rosen
United States District Judge

This habeas corpus matter is presently before the Court on Petitioner William Merriweather's *Nunc Pro Tunc* Application for an Order directing that the Court's denial of Petitioner's January 25, 2001 Motion for an Evidentiary Hearing be explicitly set forth in a docket entry.

The Court concludes that the Court's ruling on this issue is adequately presented in the various opinions and orders entered in this case, including the Sixth Circuit's April 30, 2002 Order [Dkt. # 77]; this Court's May 13, 2015 "Amended Order Denying Petitioner's April 2, 2015 Motion for Relief from Judgment and Denying a Certificate of Appealability and Leave to Appeal *In Forma Pauperis*" [Dkt. # 100]; the July 2, 2015 "Order Granting April 27, 2015 Motion for Reconsideration of Order Denying Motion to Amend Motion for

Relief from Judgment, but Adhering to the Decisions Denying Petitioner's April 2, 2015 Motion for Relief from Judgment and Denying Motion for Reconsideration of those Decisions; Denying Motion for Extension of Time to Move to Expand the Record; and Denying a Certificate of Appealability and Leave to Appeal *In Forma Pauperis*" [Dkt. # 104]; and the Sixth Circuit's January 28, 2016 Order [Dkt. # 107]. Therefore,

IT IS HEREBY ORDERED that Petitioner's *Nunc Pro Tunc* Application [Dkt. # 108] is **DENIED**.

Before Petitioner may appeal from this Order, a certificate of appealability must issue. See 28 U.S.C. § 2253(c)(1)(a); Fed. R. App. P. 22(b). A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make the required showing, the movant must show that reasonable jurists could debate whether the matter could have been resolved differently or whether the claims raised deserved further review. *Johnson v. Bell*, 605 F.3d 333, 339 (6th Cir. 2010). The court concludes that jurists of reason would not find the Court's denial of Merriweather's *nunc pro tunc* application debatable. The Court also will also deny Petitioner permission to appeal *in forma pauperis* because any appeal would be frivolous. Accordingly,

IT IS FURTHER ORDERED that a certificate of appealability and permission to appeal *in forma pauperis* are DENIED.

Dated: March 15, 2016

s/Gerald E. Rosen
United States District Judge

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on March 15, 2016, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5135