

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAMEKO DWAYNE VESEY,

Petitioner,

v.

CASE NO. 2:09-CV-14206
HONORABLE ARTHUR J. TARNOW

GREG MCQUIGGIN,

Respondent.

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ORDER DENYING MOTION TO ALTER OR AMEND JUDGMENT

This matter is before the Court on Michigan prisoner Dameko Dwayne Vesey's motion to alter or amend the judgment concerning the denial of his petition for a writ of habeas corpus brought pursuant to 28 U.S.C. § 2254. Specifically, Petitioner challenges the Court's denial of relief on his claim that the trial court denied him the right to present a defense by excluding evidence of third-party culpability. The Court has granted Petitioner a certificate of appealability on that issue.

Petitioner brings his motion pursuant to Federal Rule of Civil Procedure 52(b) and/or 59(e) and Local Rule 7.1. He claims that the Court's opinion "grossly understates the prejudice to the defense by the exclusion of relevant evidence" and goes on to discuss the trial facts and the state court's and this Court's rulings. However, a motion for reconsideration which presents issues already ruled upon by the Court, either expressly or by reasonable implication, will not be granted. *See Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Having reviewed the pleadings, the Court concludes that Petitioner has not met his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(h)(3). The Court properly reviewed this issue and determined that the

Michigan Court of Appeals' denial of relief on this claim was neither contrary to Supreme Court precedent nor an unreasonable application thereof. While this issue deserves further review on appeal, the Court finds no reason to reconsider its decision denying habeas relief. Accordingly, the Court **DENIES** Petitioner's motion to alter or amend the judgment.

IT IS SO ORDERED.

S/Arthur J. Tarnow
Arthur J. Tarnow
Senior United States District Judge

Dated: February 13, 2013

I hereby certify that a copy of the foregoing document was served upon parties/counsel of record on February 13, 2013, by electronic and/or ordinary mail.

S/Catherine A. Pickles
Judicial Assistant