UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TRACY JODETTE AUGUST, #714643,

Petitioner,

v.

CASE NO. 2:11-CV-11717
HONORABLE PAUL D. BORMAN

MILLICENT WARREN,

Respondent.
_____/

ORDER DENYING PETITIONER'S MOTIONS FOR REHEARING AND TO SUPPLEMENT HER PETITION

This matter is before the Court on Petitioner's motions for rehearing and to supplement her pending habeas petition with a report from the Governor's Indigent Defense Advisory Commission, which was issued on June 23, 2012 and which she believes is relevant to her ineffective assistance of counsel claim. The Court recently denied the same motion to supplement.

Having considered the matter, the Court finds that Petitioner's motions must be denied. The Court did not err in denying the motion to supplement. As discussed in the Court's prior order, the report is not relevant to Petitioner's habeas action. The issue on habeas review is whether counsel was effective in Petitioner's state criminal proceedings, not whether the indigent representation system in Michigan is flawed. Moreover, because the report is new and was not part of the state court record, it may not be considered by the Court on habeas review. *See Cullen v. Pinholster*, _ U.S. _, 131 S. Ct. 1388, 1398 (2011) (ruling that habeas review under 28 U.S.C. §2254(d) is "limited to the record that was before the state court that adjudicated the claim on the merits"). 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). Petitioner has not met her burden of showing a palpable defect by which the Court has been misled or her burden of showing that a different disposition must result from a correction thereof as required by Local Rule 7.1(h)(3). Accordingly, the Court **DENIES** Petitioner's motions.

IT IS SO ORDERED.

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: 10-26-12