

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEONDRE D. GAINES,

Petitioner,

v.

CASE NO. 13-cv-13605

SHARON L. BURT,

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Respondent.

**ORDER DENYING PETITIONER'S MOTION FOR
A CERTIFICATE OF APPEALABILITY (ECF No. 13)**

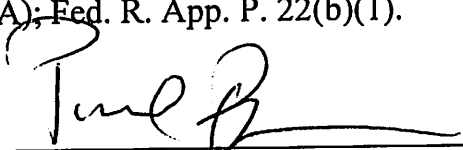
Petitioner Deondre D. Gaines commenced this action on August 21, 2013, by filing a *pro se* habeas corpus petition challenging his Saginaw County convictions for first-degree murder, conspiracy to commit first-degree murder, two counts of assault with intent to commit murder, possession of a firearm during the commission of a felony, and carrying a pistol in an automobile. Petitioner argued in his habeas petition that: (1) the trial court erred by denying his motion for a directed verdict of acquittal on the conspiracy charge and one of the assault charges; (2) the trial court erred by overruling a defense objection to the admission of out-of-court statements; (3) there was insufficient evidence to support his convictions for first-degree murder and the second assault charge; (4) trial counsel provided ineffective assistance; (5) the trial court failed to govern the trial in a proper manner; (6) the prosecutor engaged in misconduct; and (7) the cumulative effect of the errors deprived him of a fair trial. The Court denied the habeas petition after determining that the state-court orders and opinions in Petitioner's criminal

case were not objectively unreasonable or “so lacking in justification that there was an error . . . beyond any possibility for fairminded disagreement.” *Harrington v. Richter*, 562 U.S. 86, 103 (2011).

Petitioner has appealed the Court’s opinion and judgment denying his habeas petition. Currently pending before this Court is Petitioner’s motion for a certificate of appealability. Petitioner seeks a certificate of appealability on habeas claims one, three, four, five, and six, regarding the trial court’s denial of his motion for a directed verdict of acquittal, the sufficiency of the evidence on the murder and second assault counts, trial counsel’s performance, the trial court’s handling of the trial, and the prosecutor’s conduct.

The Court denied a certificate of appealability in its dispositive opinion on the basis that reasonable jurists would not find the Court’s assessment of Petitioner’s constitutional claims debatable or wrong. *See Op. and Order Denying the Pet. for Writ of Habeas Corpus, Denying a Certificate of Appealability, and Granting Leave to Proceed In Forma Pauperis on Appeal*, ECF No. 10, page 37. To the extent Petitioner seeks reconsideration of that ruling, he has failed to satisfy this District’s standard for granting reconsideration. First, his motion merely reiterates the claims that he raised in his habeas petition, and second, he has not shown that the Court made a “palpable defect” when denying a certificate of appealability in the dispositive opinion. LR 7.1(h)(3) (E.D. Mich. July 1, 2013). The Court therefore denies as moot Petitioner’s motion for a certificate of

appealability (ECF No. 13). Petitioner may apply for a certificate of appealability in the Court of Appeals. *See* 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22(b)(1).



PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: SEP 16 2016