

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TOMMIE BYAS,

Petitioner,

Civil No. 2:17-cv-10387
Honorable Nancy G. Edmunds

MITCH PERRY,

Respondent.

_____ /

ORDER DENYING MOTION FOR RELIEF FROM JUDGMENT [dkt. 5]

Before the court is Petitioner's motion for relief from judgment. On February 15, 2017, this Court summarily denied Petitioner's petition for a writ of habeas corpus on the grounds that it constituted a prohibited successive application for habeas relief under 28 U.S.C. § 2244(b)(1) which raised claims identical to ones presented in a prior habeas case. The Court also denied a certificate of appealability and denied permission to appeal in forma pauperis.

Petitioner brings the present motion pursuant to Federal Rule of Civil Procedure 60(b), and he seems to argue that this Court or perhaps the state courts improperly imposed a procedural bar to review of his claims. The motion is poorly drafted, and therefore Petitioner's legal position is far from clear. Nevertheless, the fact remains that Petitioner's application for habeas relief raised claims identical to those raised in a previous habeas proceeding. See *Byas v. Romanowski*, No. 14-12013 (E.D. Mich. June 10, 2014). 28 U.S.C. § 2244(b)(1) provides that "[a] claim presented in a second or successive habeas corpus application under section 2254 that was presented in a prior application shall be dismissed." The Court can discern no basis in Petitioner's motion undermining the Court's disposition of the case.

Based upon the foregoing, **IT IS HEREBY ORDERED** that Petitioner's Motion for Relief

From Judgment [Dkt.5] is **DENIED**.

s/ Nancy G. Edmunds
Hon. Nancy G. Edmunds
United States District Judge

Dated: June 1, 2017

CERTIFICATION OF SERVICE

I hereby certify that a copy of the foregoing Order was served by electronic means or U.S. Mail to Counsel of Record and/or Pro Se Parties on June 1, 2017

s/ Carol J. Bethel
Case Manager