

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MARK OSUNA,

Plaintiff,

File No. 1:08-CV-515

v.

HON. ROBERT HOLMES BELL

UNITED STATES OF AMERICA,

Defendant.

OPINION

This matter comes before the Court on Mark Osuna's motion for a certificate of appealability. (Dkt. No. 23.) On August 17, 2010, this Court denied Movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, and denied a certificate of appealability. (Dkt. No. 18.) The present motion is a motion for reconsideration and is subject to Local Rule 7.4, which states:

Generally, and without restricting the discretion of the Court, motions for reconsideration which merely present the same issues ruled upon by the Court shall not be granted. The movant shall not only demonstrate a palpable defect by which the Court and the parties have been misled, but also show that a different disposition of the case must result from a correction thereof.

W.D. Mich. LCivR 7.4(a) (emphasis added).

In the motion for reconsideration, Movant alleges that "any rational defendant would have wanted [the] attorney to file an appeal," as shown by the transcript of the plea hearing, and that the Court committed plain error during the original trial by accepting his guilty plea.

(Dkt. No. 23, 2.) Movant made the same allegations in his original § 2255 motion to vacate sentence and those claims were addressed by this Court. Movant has not demonstrated a palpable defect by which the Court has been misled and that a different disposition of the case must result from a correction of that defect. This motion for reconsideration merely presents the same issues ruled upon by the Court. Accordingly, the motion will be denied.

Dated: November 17, 2010

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE