

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
DELTA DIVISION**

DECARLOS JENKINS

PETITIONER

v.

No. 2:09CV167-P-S

STATE OF MISSISSIPPI, ET AL.

RESPONDENTS

**ORDER DENYING PETITIONER'S MOTION
FOR RELIEF FROM JUDGMENT OR ORDER**

This matter comes before the court on the petitioner's motion for reconsideration of the court's December 14, 2010, memorandum opinion and final judgment denying Jenkins' petition for a writ of *habeas corpus*. The court interprets the motion, using the liberal standard for *pro se* litigants set forth in *Haines v. Kerner*, 404 U.S. 519 (1972), as a motion for relief from a judgment or order under FED. R. CIV. P. 60. An order granting relief under Rule 60 must be based upon: (1) clerical mistakes, (2) mistake, inadvertence, surprise, or excusable neglect, (3) newly discovered evidence, (4) fraud or other misconduct of an adverse party, (5) a void judgment, or (6) any other reason justifying relief from the operation of the order.

The petitioner largely reiterates the arguments set forth in his petition. He also argues that he inadvertently filed his petition for *certiorari* with the United States Supreme Court, rather than the Mississippi Supreme Court. He did not, however, correct this error and seek *certiorari* review in the Mississippi Supreme Court, and the large amount of time that has since transpired takes such an error out of the realm of excusable neglect. As such, the petitioner has neither asserted nor proven any of the specific justifications for relief from an order permitted under Rule 60. In addition, the

petitioner has not presented “any other reason justifying relief from the operation” of the judgment.

As such, the petitioner’s request for reconsideration is **DENIED**.

SO ORDERED, this the 19th day of April, 2011.

/s/ W. Allen Pepper, Jr. _____
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE