

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

DAYRAL T. NATHAN

PETITIONER

VERSUS

CIVIL ACTION NO. 1:91cv177WJG

STEVE W. PUCKETT

RESPONDENT

ORDER

THIS CAUSE comes before the Court on the motion [20] for reconsideration filed by Petitioner, Dayral T. Nathan, on March 25, 2010. A review of the record provides that on April 22, 1991, Petitioner filed a petition for *habeas* relief. A final judgment dismissing this civil action was then entered on September 7, 1993. (Ct. R., Doc. 12.) Petitioner filed his notice of appeal on September 29, 1993. (Ct. R., Doc. 15.) The United States Court of Appeals for the Fifth Circuit entered its Judgment which was filed in this Court on May 5, 1994, denying Petitioner's motion for Certificate of Probable Cause. (Ct. R., Doc 18.)

In the instant motion, Petitioner states that same is brought pursuant to Rule 52(b) of the Federal Rules of Civil Procedure. Rule 52(b) provides that a Petitioner is required to file such a motion "no later than 28 days after the entry of the judgment." Clearly, this motion has been filed more than 28 days after the entry of the judgment. In fact, Petitioner has filed this motion more than 16 years after the final judgment was entered by this Court dismissing the instant civil action. (Ct. R., Docs. 12 & 20.) Therefore, having reviewed the motion and the record in the cause, the Court finds Petitioner's motion is not well-taken and should be denied.

To the extent that Petitioner may be filing a second or successive habeas request, he is required to receive authorization from the United States Court of Appeals for the Fifth Circuit for this district court to consider a second or successive habeas request. *See* 28 U.S.C. § 2244(b)(3)(A). On April 26, 2010, (Ct. R., Doc. 21), a certified copy of the Fifth Circuit's denial of the required authorization, effective as of April 15, 2010, was filed in this cause.

It is therefore,

ORDERED that Petitioner's motion [20] for reconsideration be, and is hereby, denied. It is further,

ORDERED that this matter be, and is hereby, dismissed on the docket of this Court.

SO ORDERED, this the 26th day of April, 2010.

Walter J. Fox III

UNITED STATES SENIOR DISTRICT JUDGE