

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

DAYRAL T. NATHAN

PLAINTIFF

VERSUS

CRIMINAL NO. 1:91cv177WJG

STEVE W. PUCKETT

DEFENDANT

ORDER

THIS CAUSE comes before the Court on Petitioner's motion [23] to vacate the Court's order entered on April 27, 2010, denying Petitioner's motion for reconsideration. (Ct. R., Docs. 20, 22.) In the instant motion filed May 13, 2010, Petitioner points out that his motion for reconsideration was based on Rule 52(b) of the Federal Rules of Criminal Procedure, not the Federal Rules of Civil Procedure as stated in the order. (*Id.*) As such, Petitioner argues that Rule 52(b) of the Federal Rules of Criminal Procedure does not set forth a time limitation. Because the instant action is civil in nature, the Federal Rules of Criminal Procedure do not apply. *See Williams v. Smith*, 434 F.2d 592, 595 (5th Cir. 1970) ("A habeas corpus petition is civil in nature . . ."). Hence, Petitioner's reliance on Rule 52(b) of the Federal Rules of Criminal Procedure is misplaced.

Additionally, upon review Petitioner's most recently filed motion, and the record in this cause, the Court finds Petitioner's arguments presented in his motion are without merit. The Court therefore finds no reason to alter its previous ruling. Accordingly, it is

ORDERED that Petitioner's motion [23] to vacate the order entered on May 13, 2010, be,

and is hereby, denied.

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

Walter J. Fox III

UNITED STATES SENIOR DISTRICT JUDGE