

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RAFAEL A. JONES, SR.,)	
)	
Petitioner,)	
)	
v.)	No. 4:12-CV-44 CAS
)	
JEFF NORMAN,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

This closed matter is before the Court on petitioner’s motion for a “rehearing under Rule 59(e) Fed. R. Civ. P.” Petitioner objects to the denial of his habeas petition, which was filed pursuant to 28 U.S.C. § 2254. For the following reasons, petitioner’s motion will be denied.

The Eighth Circuit has given specific instructions with respect to filing motions challenging judgments. Where a motion to reconsider is made in response to a final order, the Eighth Circuit has instructed district courts to construe it as a motion under Rule 59(e) of the Federal Rules of Civil Procedure. Schoffstall v. Henderson, 223 F.3d 818, 827 (8th Cir. 2000).

Under Rule 59(e), petitioner had twenty-eight (28) days from the date the judgment was entered, July 10, 2012, to file a motion to alter or amend the judgment. See Rule 59(e), Fed. R. Civ. P. Petitioner’s motion is dated September 17, 2012, and it was filed on September 24, 2012, more than 28 days after the judgment was entered. As a result, the motion is untimely and this Court lacks jurisdiction to consider it. See Townsend v. Terminal Packaging Co., 853 F.2d 623, 624 (8th Cir. 1988).

Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion to alter or amend the judgment under Rule 59(e) is **DENIED** for lack of jurisdiction as untimely. [Doc. 55]

A handwritten signature in cursive script, appearing to read "Charles A. Shaw", written in black ink.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 13th day of June, 2013.