

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

HASSAN LATIF KHAALID,)
a/k/a Marvel Jones,)
)
Petitioner,)
)
v.)
)
MICHAEL S. BOWERSOX,)
)
Respondent.)

No. 4:13CV01798 ERW

MEMORANDUM AND ORDER

This matter is before the Court on petitioner’s motion for relief from judgment under Rule 60(b)(6) of the Federal Rules of Civil Procedure. Petitioner seeks relief from the Court’s denial of habeas corpus relief in March 2000. The motion is denied.

In 1993, petitioner was convicted of first-degree murder and armed criminal action. Before trial, petitioner was examined by psychologist Dr. Pat Fleming, who chronicled his history, administered various psychological tests, and concluded that he suffered from an impairment with psychological stressors preventing him from coolly reflecting, which is an element of first degree murder. The trial court excluded this testimony during the guilt phase of the trial, but it allowed the testimony during the penalty phase. On direct appeal, petitioner argued that the trial court’s exclusion of the testimony during the guilt phase violated his right to present a defense. The Missouri

Court of Appeals refused to review the claim, finding that petitioner failed to make an adequate offer of proof.

In his federal habeas petition, petitioner argued that the exclusion of the testimony violated his due process and equal protection rights. This Court denied the claim after finding that it was procedurally defaulted.

On appeal, the Eighth Circuit Court of Appeals reviewed the claim on the merits and found that petitioner was not entitled to relief. The court found that “Dr. Fleming’s testimony did not include a determination that Khaalid suffers from a mental disease or defect as defined by Missouri law, it was properly excluded, and thus Khaalid’s claim fails.” Khaalid v. Bowersox, 259 F.3d 975, 979 (8th Cir. 2001).

In the instant motion, petitioner argues that the Court erred in finding that his claim was procedurally defaulted.

Petitioner’s argument is moot in light of the fact that the Eighth Circuit Court of Appeals reviewed the claim on the merits and found it lacking. As a result, petitioner is not entitled to relief under Rule 60(b). Additionally, the Court does not believe the motion was filed in a “reasonable time” as required by Rule 60(c).

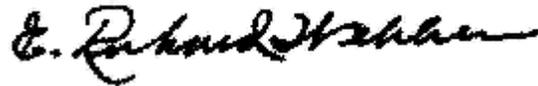
Accordingly,

IT IS HEREBY ORDERED that petitioner’s motion for relief from judgment under Rule 60(b)(6) is **DENIED** and this action is **DISMISSED**.

IT IS FURTHER ORDERED that petitioner's motion for leave to proceed in forma pauperis is **GRANTED**.

A separate Order of Dismissal will be filed forthwith.

So Ordered this 21st day of October, 2013.



E. RICHARD WEBBER
SENIOR UNITED STATES DISTRICT JUDGE