

A motion to alter or amend a judgment under Rule 59(e) of the Federal Rules of Civil Procedure serves “the limited function of correcting manifest errors of law or fact or to present newly discovered evidence.” [Holder v. United States, 721 F.3d 979, 986 \(8th Cir. 2013\)](#) (internal quotation marks omitted). A Rule 59(e) motion “cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment.” *Id.* Under Federal Rule of Civil Procedure 60(b)(6), “the court may relieve a party or its legal representative from a final judgment [or] order,” for any “reason that justifies relief.” [Fed.R.Civ.P. 60\(b\)\(6\)](#).

Peterson’s motion merely reargues the merits of his habeas corpus petition. However, the court cannot address the merits of his habeas corpus petition because he did not timely file the petition in this court.

To the extent Peterson argues the court should excuse him from the procedural bar of the statute of limitations because he is actually innocent, his argument fails. In [McQuiggin v. Perkins, 133 S. Ct. 1924 \(2013\)](#), the Supreme Court held that a habeas corpus petitioner can overcome the expiration of the statute of limitations by making a convincing showing of actual innocence. See [McQuiggin, 133 S. Ct. 1928](#). The Court held that a petitioner attempting to show actual innocence is required to produce new evidence sufficient to persuade the district court that “no juror, acting reasonably, would have voted to find him guilty beyond a reasonable doubt.” [133 S.Ct. at 1928](#) (quoting [Schlup v. Delo, 513 U.S. 298, 329 \(1995\)](#)). Actual innocence means factual innocence, not legal innocence or legal insufficiency. [Narcisse v Dahm, 9 F.3d 38, 40 \(8th Cir. 1993\)](#). Here, Peterson has not produced evidence in support of a claim that he is actually innocent. For these reasons, the court finds Peterson has not made a convincing showing of actual innocence.

prohibited person. (Filing No. [9-2 at CM/ECF pp. 85-87.](#))

IT IS THEREFORE ORDERED that: Peterson's Motion for Reconsideration (Filing No. [19](#)) is denied.

DATED this 16th day of March, 2015.

BY THE COURT:

Richard G. Kopf

Senior United States District Judge

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