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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

TROY ANTHONY MORROW,

Petitioner,

v.

BRIAN E. WILLIAMS, SR., et al.,

Respondents.

Case No. 3:17-cv-00580-MMD-CBC

ORDER

Petitioner Troy Anthony Morrow's pro se petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 is before the court on his motion for reconsideration of the denial of his third motion for appointment of counsel (ECF No. 21). Under Local Rule 59-1 the court may reconsider such an order if: (1) there is newly discovered evidence that was not available when the original motion or response was filed; (2) the court committed clear error, or the initial decision was manifestly unjust; or (3) if there is an intervening change in controlling law.

Here, Petitioner filed 8 pages of progress notes by the psychology department at Lovelock Correctional Center dated November 2014 through January 2015 (ECF No. 23-2). The notes reflect that Morrow complained that his psychiatric medications made him feel depressed and caused insomnia. The psychologist indicated that Morrow likely had ADHD, methamphetamine use disorder, dysthymia, substance-induced depressive disorder, and personality disorder. The notes also state: "although stated motivation is purportedly to get relief from depression and more ability to function in the community, he appears much more focused on diagnosis and documentation than treatment." The examiner further stated that while Morrow was in distress and sought help, he also seemed to over-report and exaggerate symptoms, and that he may be malingering. Id.


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The Court declines to reconsider its prior order. First, these medical notes pre-date Petitioner's third motion for counsel by more than three years and are thus not newly discovered evidence that was not available when Petitioner filed his motion. Further, while the notes reflect mental health issues that likely have spanned much of Petitioner's life, they do not support his argument that he is incapable of presenting his habeas claims such that denial of counsel would violate his due process rights. Motions for reconsideration are also disfavored. See LR 59-1(b). Petitioner has not presented a compelling basis to reconsider the denial of appointment of counsel. Therefore, his motion for reconsideration is denied.

It is therefore ordered that Petitioner's motion for reconsideration (ECF No. 21) is denied.

It is further ordered that Petitioner must file his response to Respondents' motion to dismiss, if any, within 20 days of the date of entry of this order.

DATED THIS 28th day of January 2019.


MIRANDA M. DU
UNITED STATES DISTRICT JUDGE