

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:14-cv-660-FDW**

TERRY GILMORE,)
)
 Petitioner,)
)
 v.)
)
 DAVID MITCHELL,)
)
 Respondent.)
 _____)

ORDER

THIS MATTER is before the Court on an examination of Petitioner’s pro se motion to reconsider its Order dismissing his § 2254 petition as an unauthorized, successive petition. (3:14-cv-660, Doc. No. 3: Order).

Petitioner contends that his legal materials were seized by Sgt. Bowman upon Petitioner’s arrival at Albemarle Correctional Institution on February 28, 2012. Petitioner also argues that his legal mail was delayed for nine days after he was transferred to Brown Creek Correctional Institution in October 2014. (Id., Doc. No. 2). Petitioner’s assertions, however do not entitle him to the relief he is seeking. Put simply, Petitioner’s contention that some of his legal mail may have been interfered with in February 2012, which is nearly three years before he filed his § 2254 petition, and his contention that some of his legal mail may have been delayed in October 2014 has no impact on the fact that he has not secured authorization from the Fourth Circuit to file a successive § 2254 petition which is the reason for the dismissal of his § 2254 petition.


For the reasons stated in the Court’s Order of dismissal, (Doc. No. 3), and in this Order, Petitioner’s motion for reconsideration will be denied.

IT IS, THEREFORE ORDERED that Petitioner's motion for reconsideration is **DENIED**. (Doc. No. 6).

IT IS FURTHER ORDERED that pursuant to Rule 11(a) of the Rules Governing Section 2254 Cases, the Court declines to issue a certificate of appealability as Petitioner has not made a substantial showing of a denial of a constitutional right. 28 U.S.C. § 2253(c)(2); Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003) (in order to satisfy § 2253(c), a petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong); Slack v. McDaniel, 529 U.S. 474, 484 (2000) (holding that when relief is denied on procedural grounds, a petitioner must establish both that the correctness of the dispositive procedural ruling is debatable, and that the petition states a debatably valid claim of the denial of a constitutional right).

IT IS SO ORDERED.

Signed: January 14, 2015



Frank D. Whitney
Chief United States District Judge

