

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
AIKEN DIVISION

Patrick Bertram Walker, #296176,)	
)	
Petitioner,)	C.A. No. 1:09-2672-HMH
)	
vs.)	OPINION AND ORDER
)	
Warden of Broad River Correctional)	
Institution,)	
)	
Respondent.)	

This matter is before the court on Patrick Bertram Walker’s (“Walker”) motion to amend order pursuant to Rule 59 of the Federal Rules of Civil Procedure. On September 14, 2010, the court adopted the magistrate judge’s Report and Recommendation granting summary judgment in favor of the Respondent for Walker’s § 2254 claim. Walker filed his motion to amend on September 25, 2010.¹ After review, and for the reasons set forth below, the court denies the motion.

Rule 59 constitutes an “extraordinary remedy” that should be granted sparingly. Pac. Ins. Co. v. Am. Nat. Fire. Ins. Co., 148 F.3d 396, 403 (4th Cir. 1993). A court may amend a previous judgment pursuant to Rule 59 only “(1) to accommodate an intervening change in controlling law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice.” Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993). Rule 59 motions do not provide litigants an opportunity “to make arguments that could

¹ Houston v. Lack, 487 U.S. 266, 266 (1988).

have been made before the judgment was entered.” Hill v. Braxton, 277 F.3d 701, 708 (4th Cir. 2002).

After review, the court finds that Walker has failed to present the court with any evidence that would authorize Rule 59 relief. Instead, Walker merely reasserts the arguments raised in his § 2254 petition. In addition, Walker contends that the court failed to rule on some of the grounds for relief raised in his habeas petition. The court, however, is charged with providing explanation for adopting only the portions of the magistrate judge’s Report to which specific objections are raised. The court addressed all of Walker’s specific objections.

It is therefore

ORDERED that Walker’s motion to amend order, docket number 47, is denied.

IT IS SO ORDERED.

s/Henry M. Herlong, Jr.
Senior United States District Judge

Greenville, South Carolina
October 12, 2010

NOTICE OF RIGHT TO APPEAL

The Petitioner is hereby notified that he has the right to appeal this order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.