

IN THE UNITED STATES DISTRICT COURT
FOR THE DISCTRICK OF SOUTH CAROLINA
ORANGEBURG DIVISION

T. Terell Bryan,)	
)	Civil Action No. 5:14-3627
Petitioner,)	
)	
v.)	OPINION & ORDER
)	
Warden McFadden,)	
)	
Defendant.)	
_____)	

Before the court is Petitioner’s motion to alter or amend the court’s October 31, 2014 order. (ECF No. 19). Petitioner asserts that the judgment is void under Federal Rule of Civil Procedure (“FRCP”) 60(b)(4). FRCP 60(b)(4) states: “On motion and just terms, the court may relieve a party . . . from a final judgment, order, or proceeding for the following reasons: . . . (4) the judgment is void.” “[A] void judgment is one so affected by a fundamental infirmity that the infirmity may be raised even after the judgment becomes final.” *U.S. Aid Funds, Inc. v. Espinosa*, 559 U.S. 260, 271 (2010). “The list of such infirmities is exceedingly short.” *Id.* “Rule 60(b)(4) applies only in the rare instance where a judgment is premised either on a certain type of jurisdictional error or on a violation of due process that deprives a party of notice or the opportunity to be heard.” *Id.*

Petitioner’s motion for reconsideration does not list any portion of the court’s order that is “so affected by a fundamental infirmity.” Instead, Petitioner asserts that this court’s order is void because the South Carolina Supreme Court retained jurisdiction until it decided his case on October 7, 2014. (ECF No. 19). Even if the legal standard asserted by Petitioner was correct, the court decided his case on October 31, 2014, after the South Carolina Supreme Court denied

his petition for rehearing. Therefore, Petitioner's motion is without merit, and accordingly, the court **DENIES** the motion to alter/amend the court's order.

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

December 9, 2014
Anderson, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this order pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.