

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

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

Petitioner, proceeding pro se, is a state prisoner seeking relief under 28 U.S.C. § 2254. Pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(c), D.S.C., all pre-trial proceedings were referred to a magistrate judge. On October 6, 2014, the magistrate judge issued a Report and Recommendation (“Report”), recommending that the court dismiss his petition for a writ of habeas corpus without prejudice. Petitioner filed timely objections (ECF No. 11), along with a motion to amend/correct his petition (ECF No. 12) and a motion for leave to file a supplemental writ and an affidavit (ECF No. 14). On October 31, 2014, the court entered an order summarily dismissing Petitioner’s case, and denying his motion to amend the petition and motion for leave to file a supplemental writ and an affidavit. (ECF No. 16).

On November 25, 2014, Petitioner filed a motion to reconsider. (ECF No. 19). On December 9, 2014, the court denied that motion. (ECF No. 20). On December 17, 2014, Petitioner filed a second motion to reconsider, and he also filed a notice of appeal. (ECF Nos. 22, 23). On December 22, 2014, the court issued an order denying Petitioner’s second motion to reconsider. (ECF No. 29). On March 20, 2015, the Fourth Circuit issued an unpublished opinion dismissing his appeal. *Bryan v. McFadden*, 598 F. App’x 204 (4th Cir. Mar. 20, 2015).

On October 22, 2015, Petitioner filed his third motion to reconsider. (ECF No. 33). Petitioner claims that he is seeking relief pursuant to Fed. R. Civ. P. 60(b)(5). In his motion to reconsider, he claims that Respondent owes him various types of credits. (ECF No. 33). Rule 60(b) allows a court to “relieve a party . . . from a final judgment, order, or proceeding” for specific reasons. Fed. R. Civ. P. 60(b). Rule 60(b)(5) allows a court to provide relief from a judgment when “the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable.” The court finds that Petitioner has failed to meet his burden to satisfy the requirements of Rule 60(b)(5), or any other grounds of relief provided in Rule 60. Therefore, the court **DENIES** the motion to reconsider (ECF No. 33).

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

February 8, 2016
Anderson, South Carolina