ENTERED November 08, 2019 David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS GALVESTON DIVISION

TONY HENRY CASEY, TDCJ # 00402530,	
Petitioner,	
VS.	
LORIE DAVIS, Director, Texas Department of Criminal Justice, Correctional Institutions Division,	
Respondent.	

CIVIL ACTION NO. 3:18-00130

MEMORANDUM OPINION AND ORDER

On August 27, 2019, the Court dismissed the habeas petition filed by Tony Henry Casey (Dkt. 47, Dkt. 48). The Court subsequently denied relief under Federal Rule of Civil Procedure 59(e) (Dkt. 52). On October 24, 2019, Casey filed a "motion for leave to present federal law on the alleged facts" (Dkt. 54), which the Court will construe as a motion for reconsideration under Federal Rule of Civil Procedure 60(b)(6). Casey argues in his motion that his release date, as calculated by Respondent, violates his constitutional rights because authorities have improperly aggregated his two sentences.

Rule 60(b) is an uncommon means for relief, and "final judgments should not be lightly reopened." *Lowry Dev., L.L.C. v. Groves & Associates Ins., Inc.*, 690 F.3d 382, 385 (5th Cir. 2012) (internal citation, alteration, and quotation marks omitted). A Rule 60(b) motion may not be used to raise arguments that could have been raised prior to judgment or to argue new legal theories. *Dial One of the Mid-S., Inc. v. BellSouth Telecommunications, Inc.*, 401 F.3d 603, 607 (5th Cir. 2005).

The Court's prior opinion denied habeas relief because several of Casey's challenges to his release date were time-barred and because his claims based on state law failed to state a cognizable habeas claim under 28 U.S.C. § 2254(a) (Dkt. 47). The Court also held that Casey's due process claim lacked merit (*id*.). Casey's current motion makes arguments and cites authorities that were, or could have been, included in his briefing before entry of judgment. He therefore fails to present any ground warranting relief from the judgment under Rule 60(b).

The Court **ORDERS** that Casey's motion for leave to present federal law on the alleged facts (Dkt. 54) is **DENIED** under Federal Rule of Civil Procedure 60(b)(6). For the reasons stated in the Court's prior opinions, a certificate of appealability is **DENIED**.

The Clerk will provide copies of this order to the parties.

SIGNED this day 8th day of November, 2019.

<u>Jeorge C. Hands Jr.</u> Jeorge C. Hanks Jr.

George C. Hanks Jr. United States District Judge