

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division

MONTE DECARLOS WINSTON,

Petitioner,

v.

Civil Action No. **3:10CV631**

PATRICIA R. STANSBERRY,

Respondent.

MEMORANDUM OPINION

Monte DeCarlos Winston, a federal inmate proceeding pro se, brings this petition for a writ of habeas corpus. On September 1, 2010, the Court received a 28 U.S.C. § 2241 petition in which he challenged the execution of his sentence. By Memorandum Opinion and Order entered on July 11, 2011, the Court dismissed the 28 U.S.C. § 2241 petition. See Winston v. Stansberry, No. 3:10CV631, 2011 WL 2693383, at *3 (E.D. Va. July 11, 2011). The Court found that "Winston's Present § 2241 Petition constitutes an abuse of the writ in that the Court has rejected his claim that he is entitled to additional credit against his federal sentence for time spent in custody prior to the imposition of his federal sentence, including Willis credit." Id. The matter is before the Court on Winston's motion seeking relief from that decision under Federal Rule of Civil Procedure 59(e).

"[R]econsideration of a judgment after its entry is an extraordinary remedy which should be used sparingly." Pac. Ins. Co. v. Am. Nat'l Fire Ins. Co., 148 F.3d 396, 403 (4th Cir.

1998) (internal quotation marks omitted). Relief under Rule 59(e) is appropriate "(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) (citing Weyerhaeuser Corp. v. Koppers Co., 771 F. Supp. 1406, 1419 (D. Md. 1991); Atkins v. Marathon LeTourneau Co., 130 F.R.D. 625, 626 (S.D. Miss. 1990)). Winston suggests that reconsideration is warranted under the third ground. Nevertheless, Winston fails to demonstrate that the Court committed a clear error of law or that reconsideration is necessary to prevent manifest injustice. Accordingly, Winston's Rule 59(e) motion (Docket No. 18) will be DENIED.

The Clerk is DIRECTED to send a copy of this Memorandum Opinion to Winston and counsel of record.

An appropriate Order shall issue.

_____/s/ REP_____
Robert E. Payne
Senior United States District Judge

Date: August 25, 2004
Richmond, Virginia