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

ROGER LEE HARRELL,

Petitioner,

v. Civil Action No. 3:13CV153

COMMONWEALTH OF VIRGINIA,

Respondent.

MEMORANDUM OPINION

By Memorandum Opinion and Order entered on October 1, 2013 the Court denied a successive, unauthorized petition under 28 U.S.C. § 2254 filed by Roger Lee Harrell. (ECF Nos. 7-8.) On October 15, 2013, the Court received a Motion for Reconsideration from Harrell. (ECF No. 9.)

The United States Court of Appeals for the Fourth Circuit recognizes three grounds for relief under Rule 59(e): "(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)). Harrell fails to demonstrate any basis for granting relief under Rule 59(e).

Accordingly, Harrell's Motion for Reconsideration (ECF No. 9) will be denied.

An appeal may not be taken from the final order in a § 2254 proceeding unless a judge issues a certificate of appealability ("COA"). 28 U.S.C. § 2253(c)(1)(A). A COA will not issue unless a prisoner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). This requirement is satisfied only when "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 & n.4 (1983)). Harrell fails to satisfy this standard. Accordingly, a COA will be denied.

The Clerk is directed to send a copy of this Memorandum Opinion to Harrell.

Date: November 5, 2013
Richmond, Virginia

/s/ REP
Robert E. Payne
Senior United States District Judge