

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

MICHAEL A. LOISEAU,

Petitioner,

v.

Civil Action No. 3:15CV191

JAMES V. BEALE,

Respondent.

MEMORANDUM OPINION

Petitioner, Michael A. Loiseau, a Virginia prisoner proceeding pro se, submitted this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 ("§ 2254 Petition," ECF No. 1), challenging his drug kingpin and racketeering convictions. By Memorandum Opinion and Order entered on July 21, 2015, the Court dismissed the petition as an unauthorized, successive 28 U.S.C. § 2254 Petition. On August 3, 2015, Loiseau filed a motion for relief under Federal Rule of Civil Procedure 59(e). (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)).

Loiseau continues to insist that the Court should not have treated his petition as one for relief under 28 U.S.C. § 2254 because he filed it on the forms for filing a 28 U.S.C. § 2241 petition. This argument lacks merit for the reasons previously stated by the Court. (July 21 Memorandum Opinion 3-4.) Loiseau fails to demonstrate the Court committed a clear error of law or any other basis for granting relief under Rule 59(e). Loiseau's Rule 59(e) Motion (ECF No. 9) will be denied. The Court will deny a certificate of appealability.

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

Date: *October 5, 2015*
Richmond, Virginia

/s/ REP

Robert E. Payne
Senior United States District Judge