HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

CLARK ELMORE, Plaintiff, v. STEPHEN SINCLAIR, Defendant.	No. 08-cv-53 RBL ORDER DENYING RECONSIDERATION (Dkt. #84)

In 1996, Clark Elmore pled guilty and was sentenced to death for the rape and murder of 14-year old Kristy Ohnstad. This Court denied his writ of habeas corpus on June 21, 2012. (*See* Order, Dkt. #80.) Petitioner moves for reconsideration under Fed. R. Civ. P. 59(e), arguing that the Court's decision contained "manifest errors of law [and] fact." (Pet.'s Reply at 1, Dkt. #86.)

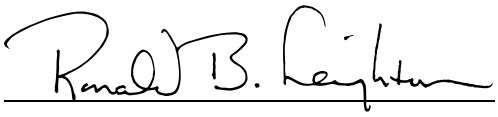
Rule 59(e) allows a court to amend its judgment: "A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment." The rule covers "a broad range of motions, and the only real limitation on the type of the motion permitted is that it must request a substantive alteration of the judgment, not merely the correction of a clerical error,or relief of a type wholly collateral to the judgment." Wright & Miller, *Federal Practice & Procedure* § 2810.1 (2d ed. 2012). The rule may encompass motions for reconsideration, which are often functionally the same. *See id.* § 2810.1 n.8 (discussing motions for reconsideration as warranted under Fed. R. Civ. Pro. 59(e)). The same motion may be treated as a motion for relief under Rule 60(b), which allows a court to grant relief from judgment for "(1) mistake, inadvertence, surprise, or excusable neglect; . . . or (6) any other reason justifying relief from the

operation of the judgment." *Edward H. Bohlin Co., Inc. v. Banning Co., Inc.*, 6 F.3d 350, 353 (5th Cir. 1993).

The parties dispute whether the motion is properly considered under Rule 59(e) or under 60(b). The Court is unconcerned. Petitioner's motion merely reargues his previous points, now adding that the Court must have ignored significant evidence to have reached such manifestly incorrect conclusions. It provides no basis to alter the judgment.

The motion is **DENIED**.

Dated this 3rd day of August 2012.



Ronald B. Leighton
United States District Judge