

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

PABLO RUIZ-VELEZ,

Petitioner,

v.

Case No. 14-C-390

**LIZZIE TEGELS,
Warden, Jackson Correctional Institution,**

Respondent.

DECISION AND ORDER

On April 4, 2014, pro se Petitioner Pablo Ruiz-Velez (“Ruiz-Velez”) filed a typewritten document entitled “Petition for a Writ of Habeas Corpus.” He did not use this District’s standard form. *See* Civil L.R. 9(a)(1)(E.D. Wis.). The Clerk of Court accepted the document for filing as a petition for relief pursuant to 28 U.S.C. § 2254, and opened the above-captioned action.

Review of the document discloses that, despite its title, it is more properly considered as seeking relief from a prior judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Some background regarding Ruiz-Velez’s earlier petition for a writ of habeas corpus, *Ruiz-Velez v. Tegels*, No. 12-C-287 (E.D. Wis.) (the “287 action”), challenging his state court conviction provides the basis for the Court’s conclusion.

The presiding judge, United States Magistrate Judge Patricia J. Gorence, issued a Decision and Order denying the petition in the 287 action on August 15, 2013, with entry of a final judgment on August 16, 2013. On September 16, 2013, Ruiz-Velez filed a motion requesting an extension of time to file a motion for reconsideration. By an Order

issued on September 20, 2013, that request was denied; in part, Ruiz was advised that the one-year time frame for filing a motion for relief from judgment under Rule 60 had not expired, so he had no need for an extension of time to file such a motion. The text of Ruiz-Velez's April 4, 2014, filing cites Rules 60(b)(1), (2) and (3) of the Federal Rules of Civil Procedure and sets forth the procedural history of the 287 action, stating that he was allowed to proceed under Rules 60(b)(1), (2) and (3). Based on the foregoing, this Court construes Ruiz-Velez's April 4, 2014, filing as a motion pursuant to Rule 60(b) seeking relief from the judgment in the 287 action.

Therefore, the Court directs the Clerk of Court to file the document in the 287 action as a motion for relief pursuant to Rule 60(b). Since this action was opened in error the Court further directs the Clerk of Court to close this action for statistical purposes.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

The Clerk of Court is **DIRECTED TO FILE ECF No. 1** from this action as a motion for relief pursuant to Rule 60(b) in the 12-C-287 action; and

The Clerk of Court is further **DIRECTED TO CLOSE THIS ACTION** for statistical purposes.

Dated at Milwaukee, Wisconsin, this 22nd day of April, 2014.

BY THE COURT:


HON. RUDOLPH T. RANDA
U.S. District Judge