

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

GERALD A. WILMER,)
)
Petitioner,)
)
v.) Civil Action No. 03-1148-KAJ
)
THOMAS CARROLL,)
Warden, and M. JANE)
BRADY, Attorney General)
of the State of Delaware,)
)
Respondents.)

ORDER

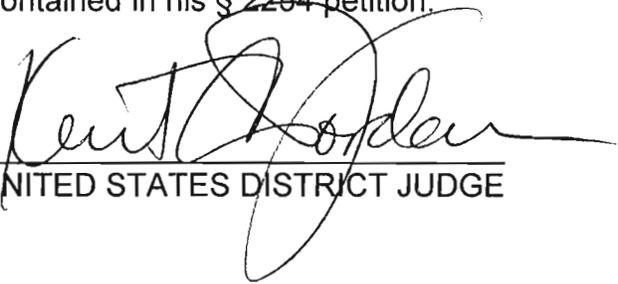
At Wilmington this 24th day of January, 2006;

IT IS ORDERED that:

Pro se petitioner Gerald A. Wilmer's motion for reconsideration of my Memorandum Opinion dismissing his § 2254 petition as time-barred is DENIED. (D.I. 33.)

Wilmer's motion does not identify the authority by which he is asking for reconsideration. To the extent Wilmer's motion is filed pursuant to Federal Rule of Civil Procedure 59(e), it is untimely. See Fed. R. Civ. P. 59(e)(imposing ten day period after entry of judgment in which to file a Rule 59(e) motion). I denied Wilmer's § 2254 petition on December 8, 2005 and the judgment was entered the same day, yet Wilmer's motion is dated December 20, 2005 and filed on December 23, 2005. Additionally, to the extent the motion is filed pursuant to Federal Rule of Civil Procedure

60(b)(1) or (6), Wilmer has not provided any reason warranting reconsideration of my determination that his § 2254 petition is time-barred. See Fed. R. Civ. P. 60(b); *United States v. Fiorelli*, 337 F.3d 282, 288 (3d Cir. 2003) (“Rule 60(b) provides six bases for reconsideration, including ‘mistake, inadvertence, surprise, or excusable neglect.’”). He merely re-asserts the same arguments contained in his § 2254 petition.


UNITED STATES DISTRICT JUDGE