

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

_____)	
DARREN SEAWRIGHT,)	
)	
Petitioner,)	
)	
v.)	Civ. A. No. 02-1258-KAJ
)	
THOMAS CARROLL, Warden, and)	
M. JANE BRADY, Attorney General)	
of the State of Delaware,)	
)	
Respondents.)	
_____)	

MEMORANDUM ORDER

On August 14, 2003, this Court dismissed as procedurally barred Darren Seawright's petition for a writ of habeas. (D.I. 42.) In reaching this conclusion, the Court determined that Seawright had failed to exhaust state remedies for his federal habeas claims, and that he did not provide any cause for the default or demonstrate any prejudice resulting therefrom. Moreover, Seawright did not present any evidence of actual innocence, thereby failing to show that a miscarriage of justice would result if the Court did not review his petition.

The Court has now received a timely "Motion for Reconsideration" from Seawright.¹ (D.I. 43.) Seawright's Motion for Reconsideration alleges that his appellate counsel provided ineffective assistance of counsel when, despite Seawright's urging, his counsel decided not to include certain issues in Seawright's appeal. Seawright contends that the omitted issues are the ones this Court found to be procedurally defaulted. Seawright further argues that his appellate counsel's alleged ineffective assistance constitutes cause to excuse the default, thereby permitting federal habeas review of his claims. For the following reasons, the Court will deny Seawright's Motion for Reconsideration. (D.I. 14.)

I. STANDARD OF REVIEW

The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence. *Harsco Corp. v. Zlotnicki*, 779 F.2d 906, 909 (3d Cir. 1985). Accordingly, a court may grant a motion for reconsideration if the moving party shows one of the following: (1) an intervening change in the controlling law; (2) the availability of new evidence that was not available when the

¹A motion for reconsideration must be filed no later than 10 days after the entry of judgment. Fed.R.Civ.P. 59(e). However, in calculating the time period, Saturdays and Sundays are excluded. Fed.R.Civ.P. 6(a). The Court's judgment was entered on August 14, 2003, and Seawright filed his motion on August 26, 2003. Excluding the intervening Saturday and Sunday renders his motion timely.

court issued its order; or (3) the need to correct a clear error of law or fact or to prevent a manifest injustice. *Max's Seafood Café v. Quinteros*, 176 F.3d 669, 677 (3d Cir. 1999) (citing *North River Ins. Co. v. CIGNA Reinsurance Co.*, 52 F.3d 1194, 1218 (3d Cir. 1995)). A motion for reconsideration is not appropriate to reargue issues that the court has already considered and decided. *Brambles USA Inc. v. Blocker*, 735 F.Supp. 1239, 1240 (D.Del. 1990).

II. DISCUSSION

Seawright has not provided any ground warranting reconsideration of his habeas petition. Seawright does not identify any intervening change of law, nor does he offer any new evidence that was previously unavailable. Indeed, the letters Seawright provides to support his claim are dated August and October 2000. (D.I. 43.) The Delaware Supreme Court decided his appeal in 2001, and Seawright filed his habeas petition on July 21, 2002. Clearly, Seawright was well aware of any alleged ineffectiveness before he filed his habeas petition, yet he failed to include this claim in his petition or in his response to the Respondent's Answer. (See D.I. 2; D.I. 41.)

To the extent that Seawright suggests that the Court committed a clear error of law, the Court is unpersuaded. The Court also concludes that a manifest injustice will not result by denying Seawright's motion for reconsideration.

III. CONCLUSION

For these reasons, IT IS HEREBY ORDERED THAT:

Petitioner Darren Seawright's Motion for Reconsideration is
DENIED. (D.I. 43.)

Date: March 2, 2004
Wilmington, Delaware

Kent A. Jordan
UNITED STATES DISTRICT JUDGE