

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

RICHARD YASAR SOMERVILLE,)	
)	
Petitioner,)	
)	
v.)	Civil Action No. 98-219-GMS
)	
ROBERT SNYDER, Warden, and)	
ATTORNEY GENERAL OF THE STATE)	
OF DELAWARE,)	
)	
Respondents.)	
)	

MEMORANDUM AND ORDER

On December 7, 2001, the court denied Richard Yasar Somerville’s petition for a writ of habeas corpus. The respondents have now filed a timely motion to alter or amend the judgment pursuant to Federal Rule of Civil Procedure 59(e). In their motion, the respondents assert that the “Court’s discussion of the exhaustion issue should be amended or altered.” (D.I. 29, Motion at 3.) For the following reasons, the court will deny the respondents’ motion.

A judgment may be altered or amended pursuant to Rule 59(e) 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 court issued its order; or (3) the need to correct a clear error of law or fact or to prevent 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)); *Ryan v. Asbestos Workers Union Local 42 Pension Fund*, Civ. A. No. 97-604-GMS, 2000 WL

1239958, *1 (D. Del. Aug. 25, 2000). A motion for reconsideration is not appropriate where the matter to be reconsidered would not reasonably have altered the result previously reached by the court. *See Brambles USA, Inc. v. Blocker*, 735 F. Supp. 1239, 1240 (D. Del. 1990).

In their Rule 59(e) motion, the respondents do not identify any intervening change in controlling law, new evidence, or clear error of law or fact. Rather, their motion is premised solely on their assertion that the court “misstate[d] the procedural progression of the case in the state courts.” (Mot. at 4.) Even if they were correct, they fail to explain how this misstatement had any effect whatsoever on the result previously reached by the court. The respondents’ Rule 59(e) motion is entirely inappropriate.

The court will not revisit the procedural progression of this matter in the state courts. The court previously concluded that “Somerville’s failure to file a direct appeal did not result in a procedural default of his ineffective assistance claim.” (D.I. 28, Memorandum and Order at 8.) The court then denied Somerville’s claim of ineffective assistance on the merits. (*Id.* at 11.) In their motion, the respondents do not disagree with either of these conclusions. Their objection is to the court’s statement of the procedural progression leading to these conclusions. Plainly, their Rule 59(e) motion fails to articulate any basis for altering or amending the judgment.

For these reasons, IT IS HEREBY ORDERED THAT the respondents’ motion to alter or amend the judgment (D.I. 29) is DENIED.

IT IS SO ORDERED.

Dated: February 4, 2002

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE