

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)). 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

Biggins first asserts that the court “erroneously interpreted and read” his claims. Inexplicably, he fails to cite any specific claim which the court misinterpreted. Moreover, in interpreting Biggins’ lengthy and inartfully drafted submissions, the court liberally construed each in an effort to provide review of his claims to the fullest extent permissible under federal habeas law.

It next appears that Biggins alleges that the respondents waived their right to argue that some of his claims were procedurally defaulted. Biggins is mistaken. As a matter of federal habeas law, a court may raise the issue of procedural default *sua sponte*, notwithstanding the respondents’ failure to assert it. *Szuchon v. Lehman*, 273 F.3d 299, 321 (3d Cir. 2001).

Biggins next argues that the court erred by finding his claims procedurally barred because the exhaustion requirement is satisfied where no further state court remedies are available. Biggins is correct that the exhaustion requirement is deemed satisfied if state court review of his claims is no longer available. Even so, such claims are procedurally barred from federal habeas review absent a showing of cause and prejudice or a fundamental miscarriage of justice. *Lines v. Larkins*, 208 F.3d 153, 160 (3d Cir. 2000), *cert. denied*, 531 U.S. 1082 (2001).

Finally, it appears that Biggins asks the court to reconsider its decision not to issue a certificate of appealability. For the reasons set forth in detail in its prior order, the court remains convinced that reasonable jurists would not debate its decision to deny Biggins' habeas petition. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000). The court will not issue a certificate of appealability.

In short, Biggins has not presented any reason warranting reconsideration of the court's order denying his habeas petition. To the extent that Biggins suggests that the court committed a clear error of law, the court is unpersuaded. His motion for reconsideration will be denied.

III. CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED THAT Biggins' Motion for Rehearing (D.I. 48) is treated as Rule 59(e) motion for reconsideration, and so treated, is DENIED.

IT IS SO ORDERED.

Dated: September 23, 2002

Gregory M. Sleet
UNITED STATES DISTRICT JUDGE