

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNDRA D. LEE,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

Case No. 04-3389-JTM

No. 93-10043-JTM

MEMORANDUM AND ORDER

This matter is before the court on the petitioner Undra Lee's Motion for Reconsideration (Dkt. No. 41). The court has previously denied Lee's motion for relief under 28 U.S.C. § 2255, holding that the action was untimely under the Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA), Pub.L. 104-132, Title I, § 105, 110 Stat. 1220. Lee has also filed a Motion for Certificate of Appealability (Dkt. No. 42). An annotation to the docket indicates that the Tenth Circuit has notified the clerk of this court that this pleading is to be construed as a Notice of Appeal.

Since the Motion for Reconsideration was docketed prior to the Motion for Certificate/Notice of Appeal, the court retains jurisdiction to consider the motion. *See United States v. Johnson*, 78 Fed. Appx. 245, 246, 2003 WL 22366694 (4th Cir. 2003) (“[i]f the motion to reconsider was filed before the notice of appeal, the district court had jurisdiction to rule on the motion”). However, Lee's motion merely restates various generalities of law, none of which address the issue of timeliness. Since the petitioner presents no valid basis for reconsideration, his motion is accordingly denied.

IT IS ACCORDINGLY ORDERED this 10th day of February, 2005, that petitioner's Motion for Reconsideration (Dkt. No. 41) is hereby denied.

s/ J. Thomas Marten
J. THOMAS MARTEN, JUDGE