

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

MICHAEL P. DAVIDSON,

Petitioner,

v.

CASE NO. 05-3136-SAC

DAVID R. MCKUNE, et al.,

Respondents.

O R D E R

This petition for writ of habeas corpus, 28 U.S.C. 2254, was dismissed as time barred, and all relief was denied by Memorandum and Order entered on November 17, 2005. On November 28, 2005, petitioner executed a Motion for Reconsideration pursuant to Rule 52(b), Fed.R.Civ.P., which was filed on December 1, 2005. This motion may also be construed as a motion to alter or amend the judgment under Rule 59(e). Having considered the motion, the court finds no reason is alleged or exists to amend its findings or make additional findings or amend the judgment. Plaintiff makes no allegations indicating an intervening change in controlling law; new evidence, or a need to correct clear error or prevent manifest injustice. Plaintiff is legally incorrect that the limitations period is tolled for the 30 days following denial of his state habeas

action by the Kansas Supreme Court. Petitioner otherwise simply reargues motions and other claims previously argued and addressed in this action.

IT IS THEREFORE BY THE COURT ORDERED that petitioner's Motion for Reconsideration pursuant to Rule 52(b) is denied.

IT IS SO ORDERED.

Dated this 28th day of December, 2005, at Topeka, Kansas.

s/Sam A. Crow

U. S. Senior District Judge