

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

FREDDIE MCGEE,

Petitioner,

v.

CASE NO. 06-3074-RDR

DUKE TERRELL, et al.,

Respondents.

O R D E R

This petition for writ of habeas corpus was dismissed and all relief was denied by Order entered April 6, 2006. The matter is presently before the court upon petitioner's Motion for Evidentiary Hearing (Doc. 7) and Motion for Rehearing, Retrial, Reconsideration or Other Post-Judgment Process (Doc. 8). Having considered these motions, the court finds they should be denied.

Petitioner attempts to reargue his claim that he is imprisoned in violation of 18 U.S.C. 4001(a). He cites Padilla v. Rumsfeld, 352 F.3d 695 (2nd Cir. 2003)¹ as purported authority for this claim. However, the petitioner in Padilla was being indefinitely detained under the President's alleged authority to detain enemy combatants in wartime. Petitioner does not allege that he is being detained solely because he has been designated an enemy combatant. He has been convicted under specific criminal statutes. The court concludes this case does not support petitioner's claim.

Petitioner's other allegations in his motions amount to

¹ The case relied upon by petitioner was reversed by the United States Supreme Court in Rumsfeld v. Padilla, 524 U.S. 426 (2004).

challenges to his conviction, which he was informed may only be raised in the sentencing court by motion under 28 U.S.C. 2255. The court finds no reason is alleged or exists for the court to alter or amend, or grant relief from, its judgment.

Petitioner is not entitled to an evidentiary hearing on his claims in this court.

IT IS THEREFORE ORDERED that petitioner's Motion for Rehearing, Retrial, Reconsideration or Other Post-Judgment Process (Doc. 8) and his Motion for Evidentiary Hearing (Doc. 7) are denied.

IT IS SO ORDERED.

Dated this 8th day of June, 2006, at Topeka, Kansas.

s/RICHARD D. ROGERS
United States District Judge