

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS**

Wallace L. Dixon, III,

Petitioner,

v.

Case No. 13-3161-JWL

James Heimgartner,

Respondent.

MEMORANDUM & ORDER

On May 6, 2016, the court denied Mr. Dixon's petition for writ of habeas corpus under 28 U.S.C. § 2254. Thereafter, the court denied Mr. Dixon's pro se motion to alter or amend the judgment. On June 2, 2016, Mr. Dixon filed a notice of appeal with respect to these orders. This matter is now before the court on two pro se motions to alter or amend filed by Mr. Dixon after he filed his notice of appeal. The court has jurisdiction to resolve the motions, *see* Fed. R. App. P. 4(a)(4)(B)(i) & adv. comm. note, 1993 Amendment ("A notice [of appeal] filed before the filing of one of the specified motions . . . is, in effect, suspended until the motion is disposed of, whereupon, the previously filed notice effectively places jurisdiction in the court of appeals."), and denies those motions summarily. Mr. Dixon is represented by counsel and yet he continues to file motions outside that representation. While the court exercised its discretion and considered Mr. Dixon's initial motion to alter or amend despite the fact that it was not filed through counsel, the court declines to consider Mr. Dixon's pro se motions this time around. *See United States v. Smith*, 815 F.3d 671, 677-78 (10th Cir. 2016).

IT IS THEREFORE ORDERED BY THE COURT THAT Mr. Dixon's motions to alter or amend (docs. 48 and 49) are **denied**.

IT IS SO ORDERED.

Dated this 7th day of June, 2016, at Kansas City, Kansas.

s/ John W. Lungstrum

John W. Lungstrum

United States District Judge