

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

FRANKIE WAYNE POPE,

Petitioner,

V.

Warden KEVIN SPRAYBERRY,

Respondent.

NO. 4:22-cv-00035-CDL-MSH

ORDER

Petitioner Frankie Wayne Pope filed a *pro se* petition for a writ of habeas corpus challenging his conviction in the Superior Court of Muscogee County, Georgia. Pet. for Writ of Habeas Corpus, ECF No. 1. On December 5, 2022, this Court dismissed the petition as untimely and denied Petitioner a certificate of appealability. Order, ECF No. 83; J., ECF No. 84. Following entry of that order, Petitioner has filed several motions seeking records and transcripts (ECF Nos. 91, 93, 100, 103); a motion seeking leave to appeal, reconsideration of the denial of a certificate of appealability, and an extension of time (ECF No. 102); a motion for leave to appeal *in forma pauperis* (ECF No. 104); and a motion for an extension of time to seek leave to appeal *in forma pauperis* (ECF No. 107).

With regard to Petitioner's motion for reconsideration of the order denying Petitioner a certificate of appealability, Petitioner has not shown any basis for reconsideration. In this regard, reconsideration is only appropriate when "(1) there has been an intervening change in the law; (2) new and previously unavailable evidence has been discovered through the exercise of due diligence; or (3) the court made a clear error of law." *Fla. Found. Seed Producers, Inc. v. Ga. Farms Servs., Inc.*, 977 F. Supp. 2d 1336

(M.D. Ga. 2013). Petitioner's motion does not show that any of these circumstances are present.

In the same motion, Petitioner also asks for leave to appeal this case to the Eleventh Circuit. Petitioner already filed a notice of appeal, and that appeal is currently pending in the Eleventh Circuit. *See Pope v. Warden*, Case No. 23-10086 (11th Cir.). Thus, in this regard, the motion is moot. Finally, Petitioner asks for a ninety-day extension to make copies of Respondent's exhibits. This case has been dismissed and is on appeal, such that there is nothing to stay. Accordingly, this motion (ECF No. 102) is **DENIED** in its entirety.

Insofar as Petitioner has been denied a certificate of appealability, his motions seeking leave to appeal *in forma pauperis* (ECF No. 104) and an extension of time to move for leave to appeal *in forma pauperis* (ECF No. 107) are **DENIED AS MOOT**. Finally, Petitioner's motions regarding records and transcripts (ECF Nos. 91, 93, 100, 103) are **DENIED** because this case has been dismissed and Petitioner has filed a notice of appeal, conferring jurisdiction over this matter to the Eleventh Circuit.

SO ORDERED, this 28th day of February, 2023.

S/Clay D. Land
CLAY D. LAND
U.S. DISTRICT COURT JUDGE
MIDDLE DISTRICT OF GEORGIA