

1 WO

KM

2

3

4

5

6

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

7

8

9

Brian A. Wilkins,

)

No. CV 09-927-PHX-MHM (MEA)

10

Petitioner,

)

**ORDER**

11

vs.

)

12

Steven Lessard, et al.,

)

13

Respondents.

)

14

15

16

Petitioner Brian A. Wilkins filed a *pro se* "Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2254 by a Person in State Custody (On Probation)" (Doc. #1). Petitioner filed an Amended Petition on May 11, 2009 (Doc. #4) and, on May 13, 2009, lodged a Second Amended Petition (Doc. #6).

17

18

19

20

By Order filed June 9, 2009, the Court directed the Clerk of Court to file the Second Amended Petition and dismissed the Second Amended Petition for failure to exhaust state court remedies.

21

22

23

On October 8, 2009, Petitioner filed a "Motion for Relief from an Order" in which he asks that the Court reverse its Order of dismissal and allow Petitioner to file a third amended petition. Petitioner alleges that he has now exhausted state court remedies.

24

25

26

Motions for reconsideration should be granted only in rare circumstances. Defenders of Wildlife v. Browner, 909 F. Supp. 1342, 1351 (D. Ariz. 1995). "Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence,

27

28

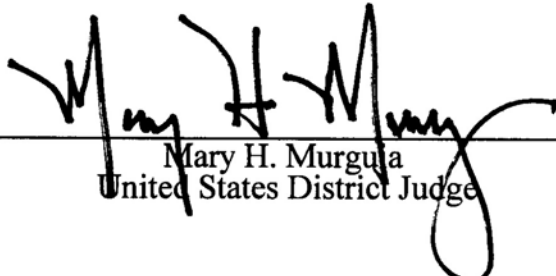
1 (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an  
2 intervening change in controlling law.” School Dist. No. 1J, Multnomah County v. ACandS,  
3 Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). None of these circumstances is relevant to the  
4 present case and the Court will deny Petitioner’s motion.

5 If Petitioner wishes to pursue his habeas claims, he must file a new habeas petition in  
6 a newly opened action.

7 **IT IS ORDERED** that Petitioner’s October 8, 2009 Motion for Relief from an Order  
8 (Doc. #10) is **denied**.

9 DATED this 3<sup>rd</sup> day of December, 2009.

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28



---

Mary H. Murgula  
United States District Judge