

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff-Respondent,

v.

Case No. 10-20403

Honorable Nancy G. Edmunds

BOBBY W. FERGUSON (D-2),

Defendant-Petitioner.

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**ORDER DENYING PETITIONER'S MOTION TO CLARIFY ORDER [640]**

On September 20, 2018, the Court entered an Order Denying Defendant-Petitioner Bobby W. Ferguson's Motion for Reconsideration of the Court's previously issued order denying his Motion under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence. (Dkt. 634.) In its order, the Court noted that Defendant's motion for reconsideration was untimely under Rule 7.1(h) of the Local Rules for the Eastern District of Michigan but timely filed under Rule 59(e) of the Federal Rules of Civil Procedure. A motion filed under Rule 59(e) allows a party to request the Court "to alter or amend a judgment."

This matter is now before the Court on Defendant's "motion to clarify order" filed on October 15, 2018. (Dkt. 640.) Defendant notes that in the Court's order denying his motion under Rule 59(e), the Court stated, "Defendant is correct that the Court did not analyze his jury instructions claims as an ineffective assistance of counsel claim. Accordingly, the Court will now consider it." (See dkt. 634, Pg ID 17888.) After considering it, the Court denied it. (See *id.* at Pg ID 17891.) Defendant argues that the

Court's order should be clarified to say that his motion was granted, but the underlying claim was denied.

Even though the Court addressed Defendant's argument on the merits in its order, it did not alter or amend the judgment it had entered at the time it denied his § 2255 motion. Thus, Defendant's argument is without merit and there is nothing requiring clarification. Defendant's motion to clarify order is therefore DENIED.

SO ORDERED.

s/Nancy G. Edmunds  
Nancy G. Edmunds  
United States District Judge

Dated: April 3, 2019

I hereby certify that a copy of the foregoing document was served upon counsel of record on April 3, 2019, by electronic and/or ordinary mail.

s/Lisa Bartlett  
Case Manager