

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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EDWARD ANDERSON,

Petitioner,

v.

DANIEL BENIK, Warden,  
Stanley Correctional Institution,

Respondent.  
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ORDER

05-C-0306-C

On January 26, 2006, the United States Magistrate Judge issued a report and recommendation in which he recommended denial of petitioner Edward Anderson's petition for a writ of habeas corpus, brought pursuant to 28 U.S.C. § 2254. According to the notice sent to petitioner with his copy of the report, his objections were due on or before February 16, 2006. On February 21, 2006, after receiving no objections to the report and recommendation from petitioner, I adopted the recommendation and denied the petition. On February 24, 2006, the court received a motion for an extension of time from petitioner, which he had dated February 14, 2006. In the motion, petitioner asked to have until March 6, 2006 to file his objections in this case. He explained that he was working on a number

of other matters and was unable to address the issues in this proceeding by the deadline for filing his objections.

The magistrate judge denied petitioner's request for additional time on the ground that the report and recommendation had been adopted and the petition denied but suggested to petitioner that he could move for reconsideration. Petitioner did as the magistrate judge suggested but before he did so, he filed a notice of appeal. Once he did that, this court lost jurisdiction over his petition. I cannot rule on petitioner's motion for reconsideration unless I seek and obtain leave from the Court of Appeals for the Seventh Circuit to have the petition remanded to this court.

Before deciding whether to seek such leave, I have reviewed the motion for reconsideration to see whether any possibility exists that I would grant the motion if the case were remanded for the purpose of considering the motion. For the most part, the motion rests on petitioner's allegations that if he had been provided counsel at the various stages of his trial, appeal and post-conviction motions, he would have prevailed on his claims. Nothing in the motion undermines the careful and thorough conclusions the magistrate judge reached after considering each of the grounds alleged by petitioner for vacation of his conviction.

Like many of the convicted persons who file petitions for writs of habeas corpus, petitioner does not seem to understand what a high hurdle he must overcome to obtain

relief. He must show that the state courts' denial of his post conviction motions was not just erroneous but based on an *unreasonable* application of clearly established federal law or on an *unreasonable* determination of the facts. Petitioner's allegations did not show that the state courts made any errors, much less that they made unreasonable errors.

#### ORDER

IT IS ORDERED that this court lacks jurisdiction to entertain petitioner Edward Anderson's motion for reconsideration of the denial of his petition for a writ of habeas corpus. No purpose would be served in asking the court of appeals to remand the petition to this court to give it further consideration.

Entered this 15th day of March, 2006.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge