

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

MARTIN J. APPLEBEE,

Petitioner,

v.

ORDER
06-C-327-S
03-CR-159-S-01

UNITED STATES OF AMERICA,

Respondent.

On September 13, 2006, judgment was entered denying petitioner's motion to vacate his sentence under 28 U.S.C. § 2255. On September 18, 2006 petitioner filed his reply to the motion which was to be filed not later than September 5, 2006. The Court will address the reply as a motion to reconsider.

In his reply petitioner has presented no new evidence or arguments. The Court found that petitioner's claims concerning his sentence were raised and rejected in his appeal and cannot be relitigated. Except for his ineffective assistance of counsel claim his remaining claims could have been raised on appeal and were not. Since he has failed to show cause and prejudice for not raising these claims on appeal he is barred from pursuing them in this Court.

The Court carefully addressed the merits of petitioner's ineffective assistance of counsel claim in its previous decision.

The Court concludes that petitioner has not shown that absent any action or inaction by his counsel he would have received a shorter sentence. According to Glover v. United States, 531 U.S. 198 (2001), petitioner's counsel was not ineffective.

The Court affirms its previous decision that petitioner's motion to vacate his sentence under 28 U.S.C. § 2255 should be denied. Accordingly, petitioner's motion for reconsideration will be denied.

ORDER

IT IS ORDERED that petitioner's motion for reconsideration is DENIED.

Entered this 19th day of September, 2006.

BY THE COURT:

S/

JOHN C. SHABAZ
District Judge