

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

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MICHAEL MARKS,

Petitioner,

ORDER

v.

06-C-340-S

PHIL KINGSTON,

Respondent.

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Petitioner's petition for a writ of habeas corpus was dismissed by this Court with prejudice on August 29, 2006 having found that the Wisconsin Court of Appeals decision was neither contrary to clearly established law nor based on an unreasonable determination of the facts.

Petitioner moves reconsideration alleging that he was denied counsel of his choice because his retained counsel failed to appear at trial. He refers this Court to United States v. Gonzalez-Lopez, 126 S.Ct. 2557 (June 6, 2006); which holds that a defendant's Sixth Amendment right to counsel is violated where the disqualification of his chosen counsel was erroneous. This case can be distinguished from petitioner's case because the trial court did not disqualify petitioner's chosen counsel. Rather petitioner's retained counsel failed to appear. Petitioner's motion for reconsideration lacks merit and will be denied.

Marks v. Kingston, 06-C-340-S

ORDER

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

Entered this 18<sup>th</sup> day of September, 2006.

BY THE COURT:

S/

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JOHN C. SHABAZ  
District Judge