

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

ROBERT A. MOORE,

Petitioner,

ORDER

v.

07-C-008-C

PAMELA WALLACE, Warden,
Stanley Correctional Institution,

Respondent.

Petitioner Robert A. Moore has filed a motion for reconsideration of this court's order entered January 22, 2007, dismissing his petition for a writ of habeas corpus. The petition raised two claims: 1) that a post-sentencing change in the Wisconsin Department of Corrections' parole policy has effectively abolished petitioner's right to be released on discretionary parole, in violation of the constitution's ban on *ex post facto* laws; and 2) the refusal of the circuit court to reduce petitioner's sentence on the basis of the change in parole policy violates petitioner's right to equal protection because some courts have reduced the sentences of other inmates in light of the new policy. I dismissed the first claim without prejudice on the ground that it had to be brought under § 1983 and could not be brought under § 2254. I dismissed the second claim with prejudice on the ground that it failed to set forth a cognizable constitutional violation.

Nothing in petitioner's motion for reconsideration convinces me that I misunderstood any significant facts or made errors of law in reaching these conclusions. Accordingly, the motion will be denied.

ORDER

The motion of petitioner Robert Moore for reconsideration is DENIED. If petitioner seeks to appeal the dismissal of his petition, then he must file a notice of appeal and request a certificate of appealability in accordance with 28 U.S.C. § 2253(c). In addition, he must file either an application for leave to proceed in forma pauperis or pay the \$455 appellate filing fee.

Entered this 6th day of February, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge