

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

NORMAN ANTHONY FOSTER,

Petitioner,

ORDER

v.

07-C-517-C

RANDALL HEPP, Warden,
Jackson Correctional Center,

Respondent.

On October 24, 2007, judgment was entered in this case dismissing petitioner's petition for a writ of habeas corpus on the ground that it was untimely. Now petitioner has filed a letter dated November 17, 2007, in which he asks this court to reconsider its decision to dismiss his petition. In his letter, petitioner argues that this court erred in finding that there were no exceptional circumstances that would warrant allowing the petition under the doctrine of equitable tolling. Because petitioner is challenging the merits of this court's decision, I construe his motion as a motion pursuant to Fed. R. Civ. P. 59.

Petitioner's Rule 59 motion will be denied as untimely. Motions pursuant to Rule 59 must be made within ten days of the date of entry of the judgment in a case, and Fed. R. Civ. P. 6(b) explicitly precludes enlargement of the time for filing Rule 59(e) motions. Ten days from the October 24, 2007 date of entry of the judgment in this case, excluding intervening weekends and holidays as required by Rule 6, was November 7. Because plaintiff missed the

deadline for filing his Rule 59 motion, he is precluded from filing such a motion at this or any future time.

ORDER

IT IS ORDERED that petitioner's motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59 is DENIED as untimely.

Entered this 20th day of November, 2007.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge