

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

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EDDIE BAKER, JR.,

Petitioner,

v.

R. WERLINGER, WARDEN,  
FCI-OXFORD,

Respondent.

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ORDER

12-cv-156-wmc

EDDIE BAKER, JR.,

Petitioner,

v.

R. WERLINGER, WARDEN,  
FCI-OXFORD,

Respondent.

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ORDER

13-cv-176-wmc

Federal prisoner Eddie Baker, Jr., filed two petitions for a writ of habeas corpus under 28 U.S.C. § 2241, challenging the conviction and 327-month sentence that he received in *United States v. Baker*, Case No. 01-cr-84 (E.D. Wis.). Baker argued primarily that his conviction in that case - - for unlawful possession of a firearm as a felon - - violated the Tenth Amendment. On April 9, 2013, this court found that (1) all of Baker's legal theories should have been previously pursued under 28 U.S.C. § 2255; and (2) several had been rejected already in other post-conviction proceedings. Thus, the court dismissed Baker's petitions for lack of jurisdiction under § 2241.

Baker further complicates his situation by filing both a motion for reconsideration and a notice of appeal. He seeks leave to proceed *in forma pauperis* on appeal.

Baker's motion for reconsideration is construed as one seeking to alter or amend the judgment under Fed. R. Civ. P. 59(e). Because the motion is accompanied by a notice appeal, which has been docketed and is now pending, the court may: "(1) defer considering the motion; (2) deny the motion; or (3) state either that it would grant the motion if the court of appeals remands for that purpose or that the motion raises a substantial issue." Fed. R. Civ. P. 62.1(a). Taking the second option, this court finds that Baker has failed to identify an error of law that merits reconsideration of the judgment. *See Obrieht v. Raemisch*, 517 F.3d 489, 494 (7th Cir. 2008); *Sigsworth v. City of Aurora, Ill.*, 487 F.3d 506, 511-12 (7th Cir. 2007). The court will, therefore, deny Baker's motion for reconsideration but grant his request for leave to proceed *in forma pauperis* because his notice of appeal does not appear to have been taken in bad faith. *See* Fed. R. App. P. 24(a).

#### ORDER

IT IS ORDERED that:

1. Eddie Baker Jr.'s motion for reconsideration is DENIED.
2. Baker's motion for leave to proceed *in forma pauperis* on appeal is GRANTED.

Entered this 29th day of April, 2013.

BY THE COURT:

/s/

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WILLIAM M. CONLEY  
District Judge