

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 5:02CV41
CRIMINAL ACTION NO. 5:99CR13-02
(JUDGE STAMP)

RONALD T. MASKO,

Defendant.

**REPORT AND RECOMMENDATION THAT PETITIONER'S MOTION
FOR JUDGMENT ON THE PLEADINGS BE DENIED**

I. Background

On October 28, 2005, the defendant, Ronald T. Masko, filed a Motion for Relief From Judgment denying his habeas petition under 28 U.S.C. § 2255, pursuant to Federal Rule of Civil Procedure 60 (b).

On February 1, 2006, the undersigned entered a Report and Recommendation that Defendant's Fed. R. Civ. P. 60(b) motion be denied. On February 13, 2006, petitioner filed objections to that Report and Recommendation. The Report and Recommendation is pending before the District Court. On February 21, 2007, petitioner filed a Motion for Judgment on the Pleadings.

II. Analysis

The Motion for Judgment on the Pleadings seeks Judgment under Fed. R. Civ. P. 12 (c). Petitioner alleges in his motion that one (1) year has passed since the last pleadings were filed. Petitioner further claims that he is entitled to relief on his previously filed Rule 60 (b) motion because there was "a failure to disclose and recuse." Petitioner also moved for a hearing so " 'we' can put this matter to rest".

Petitioner simply reargues his Rule 60(b) motion and his objections to the undersigned's Report and Recommendation on the same.

Conclusion and Recommendation

Petitioner's Motion for Judgment on the Pleadings contains nothing new and provides no basis for a hearing.

Further, the District Court's decision on the 60(b) motion will render this Motion for Judgment on the Pleadings moot. For all the foregoing reasons, I recommend Petitioner's Motion for Judgment on the Pleadings be **DENIED AS MOOT**.

Any party who appears pro se and any counsel of record, as applicable, may, within ten (10) days from the date of this Report and Recommendation, file with the Clerk of the Court an original and two (2) copies of the written objections identifying the portions of the Report and Recommendation to which objection is made, and the basis for such objection. Failure to timely file objections to the Report and Recommendation set forth above will result in waiver of the right to appeal from a judgment of this Court based upon such Report and Recommendation.

The Clerk of the Court is directed to provide a copy of this Report and Recommendation to parties who appear pro se and all counsel of record, as applicable, as provided in the Administrative Procedures for Electronic Case Filing in the United States District Court for the Northern District of West Virginia.

DATED: March 8, 2007

/s/ James E. Seibert

JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE