

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-13822-D

In re:

VINODH RAGHUBIR,

Petitioner.

On Petitions for Writ of Prohibition from the
United States District Court for the
Middle District of Florida

Before: JORDAN and GRANT, Circuit Judges.

BY THE COURT:

Vinodh Raghubir, a Florida prisoner proceeding *pro se*, has filed a reconsideration motion of our denial of his motion for leave to proceed *in forma pauperis* (“IFP”) in relation to a previously filed petition for writ of prohibition. His prohibition petition arose out of the U.S. District Court for the Middle District of Florida’s dismissal of his *pro se* petition for writ of habeas corpus, 28 U.S.C. § 2254, and related motions. Liberally construing his prohibition petition, Raghubir appeared to seek review of several orders that the district court issued throughout his § 2254 proceeding.

On January 17, 2018, Raghubir filed a motion to expedite his prohibition proceedings, in which he asked that we grant his writ of prohibition to prevent further misconduct in the district court. The following day, we denied his IFP motion, finding that Raghubir’s prohibition petition was frivolous. Specifically, we noted that Raghubir had the adequate alternative remedy of

appealing the district court's dismissal of his § 2254 petition, which would bring up all non-final orders.

Raghubir then filed the instant motion for reconsideration. He appears to argue that an appeal from the district court will not provide sufficient remedy to him for the "false due process" he has suffered in the district court proceedings. Subsequently, Raghubir filed a second motion to expedite his prohibition proceedings.

A reconsideration motion is analogous to a petition for a panel rehearing, which must "state with particularity each point of law or fact that the petitioner believes the court has overlooked or misapprehended." Fed. R. App. P. 40(a)(2). In the district court context, we have held that "[a] motion for reconsideration cannot be used to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment." *Wilchombe v. TeeVee Toons, Inc.*, 555 F.3d 949, 957 (11th Cir. 2009) (quotation omitted).

Writs of prohibition only should issue if the petitioner shows "exceptional circumstances amounting to a judicial usurpation of power," and the right to relief is "clear and undisputable." *In re Wainwright*, 678 F.2d 951, 953 (11th Cir. 1982) (quotations and citations omitted). Writs of prohibition are not to be used as a substitute for an appeal or to control the decision of the trial court in discretionary matters. *Id.*

As an initial matter, Raghubir's first motion to expedite is moot because we denied his IFP motion the following day. Further, Raghubir's reconsideration motion is due to be denied as it does not demonstrate any point of law or fact that we overlooked or misapprehended regarding in denying his IFP motion based on the frivolity of his mandamus petition, under § 1915(e)(2). Fed. R. App. P. 40(a)(2). Although Raghubir argues that an appeal is not a sufficient remedy for the prohibition relief he seeks, his prohibition petition appeared to seek review of several orders that

the district court issued throughout his § 2254 proceeding and he has not shown a clear and indisputable right to any other relief. *See In re Wainwright*, 678 F.2d at 953. Specifically, his claim of “false due process” in the district court appears to relate back to unfavorable district court orders in his § 2254 proceeding. Because Raghubir’s reconsideration motion is due to be denied, his second motion to expedite is due to be denied as moot.

Accordingly, Raghubir’s motions to expedite his prohibition proceedings are **DENIED** as moot and his motion for reconsideration is **DENIED**.