



thirty days after the entry of a judgment is a mandatory jurisdictional prerequisite that this court may neither waive nor extend. *Hamer v. Neighborhood Hous. Servs. of Chi.*, 138 S. Ct. 13, 20 (2017); *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

It is therefore ordered that this appeal is **DISMISSED**.

ENTERED BY ORDER OF THE COURT

A handwritten signature in black ink, appearing to read "Deborah S. Hunt", is written over a horizontal line.

Deborah S. Hunt, Clerk

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVONTAH LEE NELSON,

Petitioner,

Case Number 17-10564

Honorable David M. Lawson

v.

TONY TRIERWEILER,

Respondent.

---

**ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY**

This matter is before the Court on the petitioner's motion for a certificate of appealability. The Court has reviewed the petitioner's motion and finds that it must be denied because the petitioner has failed to present good grounds for granting the relief requested.

The petitioner filed his petition for a writ of habeas corpus on February 21, 2017. On May 3, 2019, the Court issued an opinion denying the petition after it concluded that the claims raised in the petition were without merit. The Court issued an order denying a certificate of appealability on that same date. On June 25, 2019, the petitioner filed a notice of appeal.

Because the Court previously denied a certificate of appealability, the present motion will be construed as a motion for reconsideration of that ruling. Motions for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(h)(1) when the moving party shows (1) a "palpable defect," (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(h)(3). A "palpable defect" is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep't of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted). "Generally . . . the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court." E.D.

Mich. LR 7.1(h)(3). In his present motion, the petitioner merely reiterates the same arguments set forth in his petition, and he has not identified any palpable defect in the Court's conclusion that reasonable jurists could not debate the soundness of the Court's ruling holding that all of the claims raised were without merit.

Accordingly, it is **ORDERED** that the petitioner's motion for a certificate of appealability (ECF No. 15) is **DENIED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Date: June 25, 2019

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 25, 2019.

s/Susan K. Pinkowski  
SUSAN K. PINKOWSKI

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DAVONTAH LEE NELSON,

Petitioner,

Case Number 17-10564

Honorable David M. Lawson

v.

TONY TRIERWEILER,

Respondent.

---

**ORDER DENYING MOTION FOR RECONSIDERATION**

This matter is before the Court on the petitioner's motion for reconsideration of the Court's May 3, 2019 dismissal of his habeas petition on the merits. The Court has reviewed the petitioner's motion and will deny it because the petitioner has failed to identify any palpable defect in the Court's adjudication of the petition, and in his present motion he seeks instead merely to reargue issues already considered and ruled upon by the Court.

Motions for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(h)(1) when the moving party shows (1) a "palpable defect," (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(h)(3). A "palpable defect" is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep't of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted). "Generally . . . the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court." E.D. Mich. LR 7.1(h)(3). A motion for reconsideration which presents issues already ruled upon by a district court, either expressly or by reasonable implication, will not be granted. *Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). The petitioner's

motion states his disagreement with the Court's rulings on several of the claims raised in his petition, but the petitioner has failed to identify any palpable defect in those rulings that would result in a different disposition of the petition.

Accordingly, it is **ORDERED** that the petitioner's motion for reconsideration (ECF No. 12) is **DENIED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Date: June 25, 2019

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on June 25, 2019.

s/Susan K. Pinkowski  
SUSAN K. PINKOWSKI