

Gary E. Peel
 9705 (Rear) Fairmont Road
 Fairview Heights, IL 62208

July 9, 2018

Sen. Chuck Grasley – Chairman of the U.S. Senate Committee on the Judiciary
 135 Hart Senate Building, Washington, D.C. 20510
 Sen. Dianne Feinstein - Ranking member of the U.S. Senate Committee on the Judiciary
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Administrative Office of the
 U.S. Courts, Standing
 Advisory Committee on the
 Federal Rules of Criminal
 Procedure (F.R. Crim. P)

One Columbus Circle, NE, Washington, DC 20544

Hon. Michael J. Reagan,

Chief Judge of the U.S. District Court for the Southern
 District of Illinois
 750 Missouri Ave., East. St. Louis, IL 62201

* * (for adoption of local rules only) * *

Re: Proposed Amendment to the Federal Rules of Civil and Criminal Procedure

To whom it may concern:

I am NOT seeking any intervention, by you, in my legal matter; however, by way of example, I am enclosing a copy of my **Fifth Motion for Court Ruling**. This motion highlights a systemic problem within the federal civil and criminal court systems that I believe warrants your attention by way of one or more rule changes.

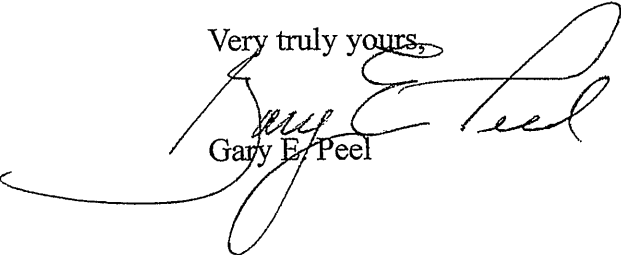
The issue is this: many criminal and civil court motions, particularly those filed by *pro se* litigants pursuant to 28 U.S.C. §§ 2254 and 2255, do not receive *prompt* rulings by U.S. District Court Judges. It is not uncommon for 28 U.S.C. §§ 2254 and 2255 motions to remain “pending” and “under consideration” for a year or more. Efforts to remedy the situation at the District Court level are usually met with orders suggesting that the matter is under advisement; yet, persistent efforts to obtain rulings are to no avail. Additionally, any Motion for Writ of Mandamus filed in the Appellate Court requires payment of filing fees which most criminal defendants do not have. A Mandamus action, to compel the issuance of a ruling, is seldom successful, leaving the defendant with less funds and no remedy. District and appellate court resources are wasted in addressing this recurring problem.

I am suggesting new federal civil and/or criminal court rules (or the mandating of local court rules) that mandate district court judges issue decisions/opinions on pending motions within a specified number of days, absent exigent circumstances (such as the death or incapacity of the judge, a pending appellate or Supreme Court case that may control the pending decision, or a pending briefing schedule applicable to the parties).

Mandating decisions within "a reasonable time" or "in due course" will not solve the problem as district court judges routinely use these generic excuses to delay issuing substantive rulings. A specific number of days (60-90?) needs to be mandated (subject only to identifiable exigent circumstances).

Thank you for your attention and consideration.

Very truly yours,


Gary E. Peel

Encl: (1)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

GARY E. PEEL)	
)	
Petitioner)	
)	
vs)	Case No. 3:17-cv-01045-SMY
)	
JOHN M. KOECHNER)	
)	
(Chief United States Probation Officer)	
for the Southern District of Illinois))	Hon. Staci M. Yandle
)	
Defendant)	

FIFTH Motion for Court Ruling

Comes now the Petitioner, Gary E. Peel, *pro se*, and, for the **FIFTH time**, moves this Court to take action and render a ruling on Petitioner’s “MOTION TO ALTER OR AMEND A JUDGMENT IN A CIVIL CASE [PURSUANT TO F.R.Civ.P. 59(e)] a/k/a MOTION TO RECONSIDER MEMORANDUM AND ORDER *and* JUDGMENT IN A CIVIL CASE,” and as grounds therefor states as follows:

1. *Petitioner is not seeking a “status” regarding this matter.* Clearly, the matter is “pending,” or “under advisement.” Instead, the Petitioner is seeking a *dispositive decision/order* on the pending motion for reconsideration.
2. The “Petition for Writ of habeas Corpus” (Doc. #1) was filed on 9-29-17, over nine (9) months ago. A Memorandum and Order (Doc #11) and a “Judgment in a Civil Case” (Doc. #12) were *promptly* entered by this Court on 11-16-17 (only 48 days later).
3. Petitioner’s “MOTION TO ALTER OR AMEND A JUDGMENT IN A CIVIL CASE [PURSUANT TO F.R.Civ.P. 59(e)] a/k/a MOTION TO RECONSIDER MEMORANDUM AND ORDER *and* JUDGMENT IN A CIVIL CASE” (Doc. #13) was then filed on 12-8-17, presenting two primary bases for reconsideration, i.e.
 - a. This Court applied the wrong standard in determining what constitutes “newly discovered evidence,” (regarding Count 1 of the Indictment), and
 - b. This Court turned a blind eye to controlling Supreme Court and Seventh Circuit precedent (regarding Counts 3 & 4 of the Indictment).
4. On March 9, 2018 petitioner filed a “Motion for Court Ruling,” (Doc. #14) informing this Court that the motion to reconsider (filed 12-8-17) had been pending for more than ninety

(90) days without a decision. This Court, on the same day of March 9, 2018, construed the motion as a request for status, terminated the motion, as moot, and indicated that the Court ***“will issue rulings in due course.”*** (See Doc. #15.)

5. On April 9, 2018 petitioner filed a “Second Motion for Court Ruling,” (Doc. #16) informing this Court that the motion to reconsider had been pending for more than one-hundred twenty (120) days without a decision. This Court merely denied the motion on 4-13-18 (Doc.#17) noting that the Court is aware of the pending motion [to reconsider] and ***“will issue a ruling in due course.”***
6. **However, the “standard” established by Rule 4 is NOT one of “due course.” It is one of “promptness.”** Rule 4 specifically requires that the Court ***“promptly examine”*** the Petition. Whatever logic exists for requiring the *prompt* examination of an *initial* habeas filing surely applies as well to motions to reconsider same. As stated by British Prime Minister William E. Gladstone in 1868, “Justice delayed is justice denied.”
7. On 5-9-18 petitioner filed a “**Third** Motion for Court Ruling,” (Doc. #18) informing this Court that the motion to reconsider had been pending for more than one-hundred fifty (150) days (40% of a year) without a decision. This Court has not yet decided that “**Third** Motion for Court Ruling.”
8. On 6-8-18 petitioner filed a “**Fourth** Motion for Court Ruling,” (Doc. #19) informing this Court that more than one hundred eighty (182) days (half of a year) had then elapsed without a ruling on the motion to reconsider. Similarly, this Court has not decided that “**Fourth** Motion for Court Ruling.”
9. An additional month has now elapsed without a ruling on the motion to reconsider. This makes a total of more than **two hundred ten (210)** days (approximating 57% of a year) without a ruling on the motion to reconsider.
10. Three (3) persons associated with Petitioner’s bankruptcy and criminal cases have now died. These are Bankruptcy Judge Kenneth Myers, District Judge William Stiehl, and attorney Donald W. Urban (bankruptcy attorney for Petitioner’s first wife, Deborah J. Peel). Hopefully, this Court’s delay in rendering a decision is not indicative of any desire that the Petitioner join this list so as to render his habeas motion “moot.”
11. Petitioner is constitutionally entitled to the following:

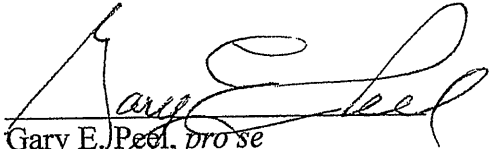
- a. due process [guaranteed by the Fifth & Fourteenth Amendments], and
- b. access to the courts [guaranteed by the First, Fifth & Fourteenth Amendments].

Both constitutional rights are denied when a District Court Judge refuses to render a timely substantive order/decision upon one or more pending motions.

12. An indefinite delay, as here, benefits only the prosecution. It is not this Court's responsibility to assume or promote the role of Petitioner's adversary. Likewise, this Court's delay in rendering a substantive decision should not be incentivized by any retaliatory motivation to deter Petitioner's insistence on securing a prompt decision.. Petitioner hopes that this Court's delayed ruling is neither
- a. indicative of a judicial bias favoring the petitioner's adversary, nor
 - b. a punitive act to deter petitioner's efforts to secure a prompt ruling.
13. Petitioner is entitled to either a) an evidentiary hearing on his habeas petition or b) the right to appeal any adverse ruling denying him that evidentiary hearing. This Court's refusal to issue a ruling precludes both avenues of recourse, thereby denying the petitioner both due process and access to the courts.
14. Petitioner seeks a ruling on the merits, not one that is tainted by this Court's assumption of an adversarial role adverse to the Petitioner or this Court's retaliation for Petitioner's multiple efforts to secure a prompt decision.

Wherefore Petitioner moves this Court, for a **FIFTH** time, to act and render a *prompt* dispositive ruling/decision, on Petitioner's "MOTION TO ALTER OR AMEND A JUDGMENT IN A CIVIL CASE [PURSUANT TO F.R.Civ.P. 59(e)] a/k/a MOTION TO RECONSIDER MEMORANDUM AND ORDER *and* JUDGMENT IN A CIVIL CASE."

July 9, 2018


Gary E. Peel, *pro se*
9705 (Rear) Fairmont Road
Fairview Heights, IL 62208
Cell Phone: 618-304-6187

cc: While Petitioner seeks NO intervention in this matter from the following, a copy of this motion is nevertheless being provided to the following to encourage the adoption of a change in the federal rules of civil and/or criminal procedure for the following purposes; to wit,

- a) to compel timely decisions on pending district court motions, and
- b) to reduce the waste of judicial resources committed to addressing delayed district court rulings.

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