UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

HECTOR EDWIN SALAS,

Petitioner,

v. **Case No: 6:15-cv-1168-Orl-41KRS**

SECRETARY, DEPARTMENT OF CORRECTIONS and ATTORNEY GENERAL, STATE OF FLORIDA,

Respondents.
_____/

ORDER

THIS CAUSE is before the Court on Petitioner Hector Edwin Salas' Motion for Reconsideration and to Alter or Amend Judgment or for a Certificate of Appealability ("Motion," Doc. 20), filed pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. On November 27, 2017, the Court denied the Petition for Writ of Habeas Corpus and dismissed the case with prejudice. (Doc. 18).

Federal Rule of Civil Procedure 59(e) provides an avenue for altering or amending a final judgment. The Eleventh Circuit Court of Appeals has stated that the "'only grounds for granting [a Rule 59] motion are newly-discovered evidence or manifest errors of law or fact.'" *Jacobs v. Tempur-Pedic Intern., Inc.*, 626 F.3d 1327, 1344 (11th Cir. 2010) (quoting *Arthur v. King*, 500 F.3d 1335, 1343 (11th Cir. 2007)). A Rule 59(e) motion cannot be used to relitigate old matters or "raise arguments or present evidence that could have been raised before judgment was entered." *Henderson v. Sec'y, Fla. Dep't of Corr.*, 441 F. App'x 629, 630 (11th Cir. 2011) (citing *Jacobs*, 626 F. 3d at 1344).

Petitioner has not presented any newly discovered evidence or manifest errors of law or fact that would warrant alteration or amendment of the Court's Order. At best, Petitioner presents

issues already considered and rejected by the Court, either expressly or by reasonable implication, which will not support a motion to alter or amend. Furthermore, to the extent Petitioner raises new arguments for the first time, such will not be considered.

This Court should grant an application for a certificate of appealability only if the petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make such a showing "[t]he petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see also Lamarca v. Sec'y, Dep't of Corr.*, 568 F.3d 929, 934 (11th Cir. 2009). However, the petitioner need not show that the appeal will succeed. *Miller-El v. Cockrell*, 537 U.S. 322, 337 (2003).

Petitioner fails to demonstrate that reasonable jurists would find the Court's assessment of the constitutional claims debatable or wrong. Moreover, Petitioner cannot show that jurists of reason would find this Court's procedural rulings debatable. Petitioner fails to make a substantial showing of the denial of a constitutional right. Thus, the Court will deny Petitioner a certificate of appealability.

Accordingly, it is **ORDERED** and **ADJUDGED** that Motion for Reconsideration and to Alter or Amend Judgment or for a Certificate of Appealability (Doc. 20) is **DENIED**.

DONE and **ORDERED** in Orlando, Florida on May 15, 2018.

CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Unrepresented Party