

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

LOUIS MATTHEW CLEMENTS,

Petitioner,

v.

Case No: 2:17-cv-396-FtM-38CM

STATE OF FLORIDA, FLORIDA  
ATTORNEY GENERAL and  
SECRETARY, DOC,

Respondents.

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**OPINION AND ORDER**<sup>1</sup>

This matter comes before the Court on Petitioner's Motion to Reconsider Motion for Temporary Restraining Order ([Doc. 31](#)) filed on May 21, 2018. Petitioner seeks reconsideration of the Court's November 7, 2017 Order ([Doc. 14](#)) denying Petitioner's motion for a preliminary injunction. On April 2, 2018, the Eleventh Circuit Court of Appeals denied Petitioner's request to proceed *in forma pauperis* on his interlocutory appeal of the Court's November 7, 2017 Order. See [Doc. 28](#).

Petitioner does not identify on which rule he seeks reconsideration. See [Doc. 31](#). The Court construes the Motion as being brought pursuant to [Fed. R. Civ. P. 60](#) (b) since it was filed beyond 30 days of the November 7, 2017 Order. A filing of a notice of appeal

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divests a district court of jurisdiction over issues involved in the appeal except in limited circumstances. [Mahone v. Ray, 326 F.3d 1176, 1179 \(11th Cir. 2003\)](#). Federal Rule of Appellate Procedure 4(a)(4) grants this Court with jurisdiction only to dispose of a [Rule 60](#) motion if filed no later than 28 days after judgment is entered but before a notice of appeal effectively places jurisdiction in the Court of Appeals. See [Fed. R. App. P. 4\(a\)\(4\)\(A\)\(vi\)](#) and 4(a)(4)(B)(i); [Mahone, 326 F.3d at 1179](#). Here the Motion was filed beyond the 28 days limit and the Eleventh Circuit has dismissed Petitioner's appeal. See [Doc. 29](#). Consequently, the Court lacks jurisdiction to consider Petitioner's Motion.

Accordingly, it is now

**ORDERED:**

Petitioner's Motion to Reconsider Motion for Temporary Restraining Order ([Doc. 31](#)) is **DISMISSED**.

**DONE** and **ORDERED** in Fort Myers, Florida this 8th day of August 2018.

  
SHERI POLSTER CHAPPELL  
UNITED STATES DISTRICT JUDGE

SA: FTMP-1  
Copies: All Parties of Record