UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

NEIL JOHNSON	:	
v.	:	NO. 3:93CR240(EBB)
UNITED STATES OF AMERICA	:	

RULING ON MOTION TO AMEND OR ALTER JUDGMENT

Petitioner moved under Rule 60(b)(6) of the Federal Rules of Civil Procedure that the court alter or amend its judgment issued with respect to his motion pursuant to 28 U.S.C. § 2255 on November 25, 2003. The Second Circuit Court of Appeals denied petitioner's motion for a certificate of appealability on July 14, 2005. On October 3, 2005, petitioner filed the pending motion during the pendency before the Supreme Court of his petition for certiorari. The court ordered petitioner to report the Court's disposition of his petition and on November 13, 2006, the petitioner notified this court that the petition had been denied on January 9, 2006. Motions under Rule 60(b)(6) are to be made within a reasonable time. This motion was made almost two years after the judgment petitioner seeks to amend.

Petitioner alleges that in its ruling this court mischaracterized his claim which was challenging the validity of his 1984 state court narcotics conviction as a claim "he was coerced into pleading guilty to the previous offense by the judge who accepted his guilty plea." The court acknowledges, as clarified by petitioner, that his claim is that he was deprived of his Sixth Amendment right to assistance of counsel when he allegedly entered into a plea agreement with a state court judge when he was unrepresented. He seeks an evidentiary hearing on this issue.

Petitioner received a sentence of 320 months in this court on February 29, 1996, a

downward departure from his sentencing guideline range of 360 months to life which was based on an adjusted offense level of 42 and a criminal history score of III, arising from the state court conviction he now challenges. However, even were that conviction to be discounted, with a criminal history score of I, petitioner's guideline range would still be 360 months to life. He therefore suffered no prejudice. His motion [Doc. No. 234] and request for evidentiary hearing is denied.

SO ORDERED.

/s/

ELLEN BREE BURNS, SENIOR JUDGE
UNITED STATES DISTRICT COURT

Dated at New Haven, CT, this ____ day of May, 2007.