

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

SCOTT WINFIELD DAVIS,	:	
	:	
Petitioner,	:	
	:	
v.	:	
	:	
ERIC SELLERS,	:	CIVIL ACTION NO.
	:	1:13-CV-1434-AT
	:	
Respondent.	:	

ORDER

This matter is before the Court on Petitioner’s Amended Motion to Reconsider [Doc. 83]. The Court denied Petitioner’s request for habeas relief on March 30, 2017, but granted a certificate of appeal to address whether Petitioner’s independent due process claims were procedurally defaulted and, ultimately, meritorious or not.

Petitioner filed his first motion for reconsideration on April 4, 2017, but then amended that motion on June 22, 2017.

Petitioner’s amended motion asks the Court to either:

(1) reconsider the evidence “concerning a ‘second tape’ apparently used during a crucial interview at which the State suggested that Defendant made incriminating statements,” (Motion, Doc. 83 at 1) and then remand the case back

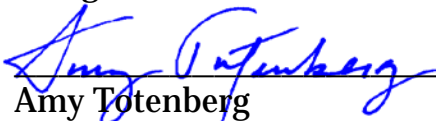
to the state court system so that the state courts can determine if this new evidence shows a due process violation; or

(2) “amend the previously issued Certificate of Appeal to include the question of whether Mr. Davis is entitled to a stay and remand to the state court system.” (Motion, Doc. 83 at 2.)

The State opposes both requests.

The Court has reviewed the briefs and concludes that petitioner’s request meets the requirements of *Slack v. McDaniel*, 529 U.S. 473 (2000) and 28 U.S.C. §2253(c) because reasonable jurists could disagree whether or not the Court should stay the case and remand it to the state court to examine the “second tape” issue. The Court therefore **AMENDS** the Certificate of Appeal to include this issue. Petitioner’s First Motion for Reconsideration is **DENIED** as moot [Doc. 70]. Petitioner’s Amended Motion to Reconsider is **GRANTED IN PART** and **DENIED IN PART** as provided herein. [Doc. 83.]

IT IS SO ORDERED this 29th day of August, 2017


Amy Totenberg
United States District Judge