

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

H. BEATTY CHADWICK : CIVIL ACTION
 :
 v. :
 :
 R.D. ANDREWS, et al. : NO. 97-4680

MEMORANDUM and ORDER

Norma L. Shapiro, J.

June 10, 1998

By Memorandum and Order dated April 30, 1998, the court denied petitioner H. Beatty Chadwick's ("Chadwick") petition for writ of habeas corpus under 28 U.S.C. § 2254. Chadwick has filed a motion for reconsideration. For the reasons stated below, Chadwick's motion will be denied.

BACKGROUND

Chadwick has been confined in the Delaware County Prison for civil contempt since April 5, 1995. The Delaware County Court of Common Pleas found Chadwick in contempt of a series of Orders directing Chadwick to deposit \$2,502,000 in an account under the court's jurisdiction. The state court, after a series of hearings at which Chadwick was represented by counsel (although Chadwick himself failed to appear at some of the hearings), found Chadwick had the present financial ability to purge the finding of contempt and obtain his release from prison.

Chadwick filed six petitions for state habeas corpus relief; the trial court denied all petitions. Several appeals of the state trial court's denials of Chadwick's state habeas petitions

and the denial of Chadwick's motion to vacate court orders were consolidated on appeal to the Pennsylvania Superior Court. In this appeal to the Superior Court, Chadwick argued: the trial court lacked jurisdiction to find him in contempt because Chadwick had a pending interlocutory appeal; the trial court failed to comply with Pennsylvania's five-step analysis before entering a finding of civil contempt; the trial court committed evidentiary errors during its hearings; civil contempt sanctions were controlled by Pennsylvania's criminal contempt statute and its limitations; the trial court exceeded its powers under the divorce code; the trial court conceivably could continue to find Chadwick in contempt indefinitely, in violation of the divorce code; and his incarceration had ceased to be coercive and was now punitive in violation of due process. See Chadwick v. Chadwick, No. 1555 Philadelphia 1995 (Pa. Super. Aug. 22, 1996) ["Chadwick I"].

The Superior Court, specifically finding that Chadwick's incarceration continued to serve a coercive purpose, rejected each of these arguments. Chadwick sought review in the Supreme Court of Pennsylvania. The Supreme Court¹ denied review on April 8, 1997.

Chadwick, alleging his continued confinement of

¹ All references to the Supreme Court refer to the Supreme Court of Pennsylvania.

approximately one year had become punitive in nature and violated due process, filed his sixth state habeas petition in May, 1996. The trial court denied Chadwick's petition. By Memorandum and Order dated April 23, 1997, the Superior Court affirmed, but stated that, at some point in time, continued incarceration, if no longer fulfilling a coercive purpose, would become punitive in nature in violation of due process. The Superior Court declined to draw the temporal line and expressly encouraged the Supreme Court to determine when incarceration for contempt becomes impermissibly punitive. See Chadwick v. Hill, No. 2192 Philadelphia 1996 (Pa. Super. Apr. 23, 1997) ["Chadwick II"].

Chadwick declined to seek review of the Superior Court's decision in Chadwick II. Instead, Chadwick filed the present petition for federal habeas relief on July 18, 1997. Chadwick argues: he was denied the right to a jury trial when found in contempt; he was denied the presumption of innocence; his incarceration of 28 months was impermissibly punitive in violation of due process.

Chadwick claims his failure to seek review of the Superior Court's April, 1997 Memorandum and Order is excusable because the Supreme Court's denial of his petition for review of the Superior Court's Chadwick I decision in August, 1996 made a petition for review of Chadwick II pointless.

By Memorandum and Order dated April 30, 1998, this court

dismissed Chadwick's § 2254 petition for failure to exhaust available state remedies. See Chadwick v. Andrews, No. 97-4680, 1998 WL 218026 (E.D. Pa. Apr. 30, 1998) ["Chadwick III"].

Chadwick's federal habeas petition was premised on a claim that his continued confinement was punitive in nature and violated due process, a claim raised most recently in Chadwick's sixth state habeas petition for which he sought no Supreme Court review. The court held Chadwick had failed to exhaust available state remedies. See Chadwick III, 1998 WL 218026 at 5. Chadwick seeks reconsideration of that decision.

DISCUSSION

"The purpose of a motion for reconsideration is to correct manifest errors of law or fact or to present newly discovered evidence." Harsco Corp. v. Zlotnicki, 779 F.2d 906, 909 (3d Cir. 1985), cert. denied, 476 U.S. 1171 (1986). "Because federal courts have a strong interest in the finality of judgments, motions for reconsideration should be granted sparingly." Continental Casualty Co. v. Diversified Indus., Inc., 884 F. Supp. 937, 943 (E.D. Pa. 1995).

A court reconsiders an issue only "when there has been an intervening change in the controlling law, when new evidence has become available, or when there is a need to correct a clear error or prevent manifest injustice." NL Industries, Inc. v. Commercial Union Ins. Co., 65 F.3d 314, 324 n. 8 (3d Cir. 1995);

Smith v. City of Chester, 155 F.R.D. 95, 96-97 (E.D. Pa. 1994).

"A motion for reconsideration is ... not properly grounded on a request that a court rethink a decision it has already made."

Tobin v. General Elec. Co., No. 95-4003, 1998 WL 31875, at *1 (E.D. Pa. Jan. 27, 1998).

Under Duckworth v. Serrano, 454 U.S. 1, 4 n.1 (1981), Chadwick had no obligation to seek repetitious review of the same federal claim in the Supreme Court of Pennsylvania, as long as it had been fairly presented to the state's highest court once. Chadwick is correct that some of the claims raised in his present federal habeas petition were raised in Chadwick I, which Chadwick did present to the Supreme Court for review. However, while Chadwick gave the Supreme Court the opportunity to review his incarceration from April, 1995 until the summer of 1995 (the period of incarceration involved in Chadwick I), he did not offer the Supreme Court the opportunity to review his incarceration from April, 1995 until May, 1996 (the period involved in Chadwick II). It is possible the Supreme Court would have reviewed Chadwick's continued confinement in Chadwick II although it declined to review Chadwick I. See Lambert v. Blackwell, 134 F.3d 506, 516 (3d Cir. 1998). Therefore, this court's decision that Chadwick failed to exhaust his available state remedies was correct and need not be reconsidered. See Chadwick III, 1998 WL 218026 at *5.

Chadwick argues the court erred in dismissing his case for lack of exhaustion. He has pointed to no legal theory the court did not consider in its Memorandum and Order of April 30, 1998, no intervening change of law and no new evidence justifying reconsideration. Chadwick has no obligation to seek repetitious review in the Supreme Court, but he is obliged to allow the state's highest court to review a decision by the Superior Court when the claim raised in the Superior Court is markedly different than that previously presented to the Supreme Court, and his federal habeas petition is based in part on a claim not raised before the Supreme Court.

Chadwick's most recent habeas petition claim that his more than two-year confinement is impermissibly punitive in violation of due process is not the same as the claim raised in Chadwick I. Because the § 2254 petition contains both exhausted and unexhausted claims, it must be dismissed. See Rose v. Lundy, 455 U.S. 509, 522 (1982). Chadwick's motion for reconsideration will be denied.

An appropriate Order follows.

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ORDER

AND NOW, this 10th day of June, 1998, upon consideration of petitioner H. Beatty Chadwick's ("Chadwick") motion for reconsideration, the response thereto, and in accordance with the attached Memorandum, it is hereby **ORDERED** that Chadwick's motion for reconsideration is **DENIED**.

Norma L. Shapiro, J.