

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ABINGDON DIVISION**

UNITED STATES OF AMERICA)	
)	
)	Case No. 1:08CR00024-36
)	
v.)	OPINION AND ORDER
)	
DOUGLAS LEE STALLWORTH,)	By: James P. Jones
)	United States District Judge
Defendant.)	

Zachary T. Lee, Assistant United States Attorney, Abingdon, Virginia, for United States; Douglas Lee Stallworth, Pro Se Defendant.

Douglas Lee Stallworth has filed a pro se Motion for Reconsideration (ECF No. 3290) of the Order granting the United States’ Motion to Dismiss Stallworth’s pro se Motion to Vacate, Set Aside, or Correct Sentence pursuant to 28 U.S.C. § 2255. In this motion, Stallworth invents new claims either not presented or not sufficiently developed in the § 2255 motion. For example, Stallworth concluded in the § 2255 motion that counsel was ineffective for not seeking downward departures from the United States Sentencing Guidelines, “notwithstanding [Stallworth]’s alleged ‘career offender statutory designation[,]’ particularly where [Stallworth] is actually and factually innocent of being a career offender[.]” (Mot. to Vacate 6F, ECF No. 2995.) Beyond this mere assertion, Stallworth had not provided evidence or argument in support, but now attempts to do so in the Motion for Reconsideration. Despite Stallworth’s assertion to the contrary, I reviewed all

of the ineffective assistance of counsel claims presented in the § 2255 motion and found them to be either too conclusory or lacking merit to warrant an evidentiary hearing or relief.

A Rule 59(e) motion “may not be used, however, to raise arguments which could have been raised prior to the issuance of the judgment, nor may they be used to argue a case under a novel legal theory that the party had the ability to address in the first instance.” *Pac. Ins. Co. v. Am. Nat’l Fire Ins. Co.*, 148 F.3d 396, 403 (4th Cir. 1998). Stallworth could have moved to amend the § 2255 motion to include relevant case law, factual support, or legal argument at any time prior to its adjudication, and his present desire to raise new claims or to clarify or expand upon prior claims is not a sufficient basis to grant relief via Rule 59(e).¹ Accordingly, it is hereby **ORDERED** that Stallworth’s motion for reconsideration (ECF No. 3290) is DENIED.

ENTER: July 15, 2015

/s/ James P. Jones
United States District Judge

¹ I note that both of the convictions supporting his statutory mandatory minimum life sentence pursuant to 21 U.S.C. § 841(b)(1)(A) came from state court convictions in Virginia that resulted in sentences of at least twelve months’ incarceration. *See United States v. Stallworth*, 466 F. App’x 218, 224 (4th Cir. 2012) (unpublished) (“In this case there is no dispute that Stallworth had two prior felony drug convictions.”).