

APPENDIX-A

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

SULAIMAN MUJAHID TAALIBDIN, :
Petitioner, :

v. :

CIVIL ACTION NO. 94-CV-6649

KENNETY D. KYLER, :
THE ATTORNEY GENERAL OF THE :
STATE OF PENNSYLVANIA, AND :
THE DISTRICT ATTORNEY OF :
PHILADELPHIA COUNTY, :

Respondents. :

FILED NOV - 5 2018

ORDER

AND NOW this 5th day of November, 2018, upon consideration of Motion for Relief from Judgment Pursuant to Fed.R.Civ.P. 60(b)(4) (ECF No. 19) filed by *pro se* petitioner, Sulaiman Mujahid Taalibdin, **IT IS ORDERED** that *pro se* petitioner's Motion under Rule 60(b)(4) is **DENIED**.

IT IS FURTHER ORDERED that a certificate of appealability will not issue because reasonable jurists would not debate the correctness of this court's procedural ruling. See U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

The decision of the Court is based on the following:

1. *Pro se* petitioner filed a petition for *habeas corpus* relief pursuant to 28 U.S.C. § 2254 in this matter on November 2, 1994. (ECF No. 1.) On April 24, 1995, this Court denied the petition. (ECF No. 14.) On July 6, 1995, the United States Court of Appeals for the Third Circuit terminated *pro se* petitioner's appeal by agreement of the parties. (ECF No. 17.)
2. In the pending Rule 60(b) Motion *pro se* petitioner argues that he is entitled to relief from a judgment that is void due to lack of subject matter jurisdiction. *Pro se* petitioner claims that this Court lacked subject matter to adjudicate his original petition for *habeas corpus* relief because the trial court failed to give him notice of every offense for which he was tried.

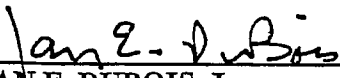
He relies on the Supreme Court's decision in *Gonzalez v. Crosby*, *Gonzalez v. Crosby*, 545 U.S. 524, 535, 125 S.Ct. 2641, 2645 (2005) in support of his position

3. The Supreme Court filed its opinion in *Gonzalez* on June 23, 2005. *Pro se* petitioner filed the instant Rule 60(b) motion relying on *Gonzalez* on October 3, 2018, more than thirteen years after *Gonzalez* was decided.

4. Rule 60(b) allows a party to seek relief from a final judgment, and request reopening of his case, under a limited set of circumstances including fraud, mistake, and newly discovered evidence. *Gonzalez* 126 S.Ct. 2641, 2645. In *Gonzalez*, the Supreme Court also noted that motions for relief pursuant to Rule 60(b) must be filed timely. Specifically, the Supreme Court stated that "...Rule 60(b) contains its own limitations, such as the requirement that the motion 'be made within a reasonable time' and the more specific 1-year deadline for asserting three of the most open-ended grounds of relief (excusable neglect, newly discovered evidence, and fraud)." Finally, to obtain relief from a judgment under Rule 60(b)(6), a movant must establish "extraordinary circumstances" which justify setting aside the judgment. *Id.*, 125 S.Ct. 2649; *Morris v. Horn*, 187 F.3d 333, 341-44 (3d Cir. 1999).

6. *Pro se* petitioner's Rule 60(b) Motion is not timely. The first petition for *habeas corpus* relief filed in this matter was denied and dismissed more than twenty-three years ago and the *Gonzalez* case was decided over thirteen years ago. *Pro se* petitioner has not provided any reason for the delay in filing the instant motion for relief from judgment. Furthermore, *pro se* petitioner has not provided the Court with any evidence that his conviction resulted in a fundamental miscarriage of justice nor has he demonstrated extraordinary circumstances which justify setting aside the Court's April 24, 1995, judgment.

BY THE COURT:


JAN E. DUBOIS, J.

APPENDIX-B

DLD-144

March 28, 2019

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 18-3678

SULAIMAN TAALIBDIN, Appellant

VS.

SUPERINTENDENT DALLAS SCI, et al.

(E.D. Pa. Civ. No. 2-94-cv-06649)

Present: JORDAN, GREENAWAY, JR., and NYGAARD, Circuit Judges

Submitted is Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1)

in the above-captioned case.

Respectfully,

Clerk

ORDER

The foregoing request for a certificate of appealability is denied because Appellant has failed to demonstrate that jurists of reason would debate the District Court's ruling. See Slack v. McDaniel, 529 U.S. 473, 484 (2000); Morris v. Horn, 187 F.3d 333, 340-41 (3d Cir. 1999). To the extent that Appellant's motion challenged a defect in the prior federal habeas proceeding, Appellant has not made a substantial showing of error by the District Court. See Gonzalez v. Crosby, 545 U.S. 524, 531-32 (2005); Pridgen v. Shannon, 380 F.3d 721, 727 (3d Cir. 2004). To the extent that Appellant seeks to attack

APPENDIX-C

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 18-3678

SULAIMAN TAALIBDIN,
Appellant

v.

SUPERINTENDENT DALLAS SCI;
THE ATTORNEY GENERAL OF THE STATE OF PENNSYLVANIA

Present: SMITH, *Chief Judge*, McKEE, AMBRO, CHAGARES, JORDAN,
HARDIMAN, GREENAWAY, JR., SHWARTZ, KRAUSE, RESTREPO, BIBAS,
PORTER, MATEY, and NYGAARD, * *Circuit Judges*.

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

BY THE COURT,

s/Joseph A. Greenaway, Jr.
Circuit Judge

Dated: August 30, 2019
Lmr/cc: Sulaiman Taalibdin
Max C. Kaufman

* Judge Nygaard's vote is limited to panel rehearing only.

**Additional material
from this filing is
available in the
Clerk's Office.**