III. The Question Presented is Important

As a matter of fact, both Congress and this Court have stressed and recognized the importance of the Fourteenth Amendment. The question here is one of importance in that it affects a multitude of often similarly situated *pro se* criminal defendants. Consequently, the decision by the Eleventh Circuit United States Court of Appeals in this matter was wrong and should warrant review.

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

Carlos J. Negron

Carlos Juan Negron, *pro se*
DC No.: U37664
Holmes Correctional Institution
3142 Thomas Drive
Bonifay, Fl. 32425

December 2019

APPENDIX

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 19-11057-F

CARLOS JUAN NEGRON,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
ATTORNEY GENERAL, STATE OF FLORIDA,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

ORDER:

Carlos Negron, a Florida prisoner serving a 25-year sentence for robbery with a firearm, moves for a certificate of appealability ("COA") to appeal the district court's denial of his Fed. R. Civ. P. 60(b) motion, as to the dismissal of his 28 U.S.C. § 2254 petition as time-barred, and for leave to proceed on appeal *in forma pauperis* ("IFP"). To merit a COA, Mr. Negron must show that reasonable jurists would find debatable both (1) the merits of an underlying claim, and (2) the procedural issues that he seeks to raise. *See* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 478 (2000).

Mr. Negron's Rule 60(b) motion raised a single claim, which does not meet the standard for a grant of a COA. He alleged that the district court erroneously determined that his § 2254 petition was time-barred, based on his discovery, in 2017, that a Fla. R. Crim. P. 3.800 motion to

correct illegal sentence, that he had submitted to prison authorities on August 25, 2011, was never filed in the state court. Although he included a copy of the Rule 3.800 motion, stamped by prison officials as being received on August 25, 2011, he did not discover that it was never mailed until six years later, and, upon discovering the error, waited nearly two years before bringing it to the district court's attention by filing his Rule 60(b) motion. Moreover, other than a language barrier, he offers no explanation for this delay. Thus, Rule 60(b) relief was unavailable because he did not act diligently in pursuing review of the issue sooner. *See Gonzalez v. Crosby*, 545 U.S. 524, 537-38 (2005)

Accordingly, Mr. Negron's motion for a COA is DENIED. Consequently, his motion for leave to proceed on appeal *in forma pauperis* is DENIED AS MOOT.

UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 19-11057-F

CARLOS JUAN NEGRON,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
ATTORNEY GENERAL, STATE OF FLORIDA,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida

Before: WILSON and JILL PRYOR, Circuit Judges.

BY THE COURT:

Carlos Negron has filed a motion for reconsideration, pursuant to 11th Cir. R. 27-2, of this Court's August 8, 2019, order denying him a certificate of appealability from the district court's order denying his Fed. R. Civ. P. 60(b) motion for reconsideration of the dismissal of his 28 U.S.C. § 2254 petition. Upon review, Negron's motion for reconsideration is DENIED because he has offered no new evidence or arguments of merit to warrant relief.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

CARLOS JUAN NEGRON,

Petitioner,

v. **Case No: 5:13-cv-126-Oc-10PRL**

SECRETARY, DEPARTMENT OF CORRECTIONS, et al.,

Respondents.
_____/

ORDER

In an order dated October 10, 2014, the Court dismissed Petitioner Carlos Juan Negron's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 as time-barred. (Doc. 11.) Judgment was entered October 14, 2014. (Doc. 12.) The United States Court of Appeals for the Eleventh Circuit affirmed on February 23, 2016. (Docs. 27, 28.) The Supreme Court of the United States denied *certiorari* on October 3, 2016. (Doc. 29.)

Petitioner moved for relief from judgment on January 14, 2019. (Docs. 33, 34.) Petitioner now appeals the Court's denial of his motion for relief from judgment (Doc. 35), construed by the Clerk as a request for Certificate of Appealability[1] (Doc. 36). Petitioner has also moved for leave to appeal *in forma pauperis* (Doc. 37).

A prisoner seeking a writ of habeas corpus has no absolute entitlement to appeal a district court's denial of his petition. 28 U.S.C. § 2253(c)(1); *Harbison v. Bell*, 556 U.S.

[1] **Error! Main Document Only.**"It is still the law of this circuit that 'a certificate of appealability is required for the appeal of any denial of a Rule 60(b) motion for relief from a judgment in a § 2254 or § 2255 proceeding.'" *Jackson v. Crosby*, 437 F.3d 1290, 1294-95 (11th Cir. 2006) (quoting *Gonzalez v. Sec'y for Dep't of Corr.*, 326 F.3d 1175 (11th Cir. 2004)).

180 (2009). "A [COA] may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2).

"Where a district court has rejected a claim on the merits, the showing required" for a COA is whether "reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). "When a district court denies a habeas petition on procedural grounds without reaching the prisoner's underlying constitutional claim, a COA should issue when the prisoner shows, at least, that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling." *Id.*

Petitioner has not made the requisite showing in these circumstances. Because he is not entitled to a certificate of appealability, he is not entitled to proceed *in forma pauperis* on appeal. Accordingly, the request for a Certificate of Appealability (Doc. 36) and the Motion for Leave to Proceed on Appeal as a Pauper (Doc. 37) are **DENIED**.

IT IS SO ORDERED.

DONE and **ORDERED** in Ocala, Florida on April 24, 2019.

UNITED STATES DISTRICT JUDGE