

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-11631-C

EDWARD OBERWISE,

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:

Edward Oberwise moves for a certificate of appealability ("COA") and leave to proceed on appeal *in forma pauperis* in order to appeal the district court's denials of his Rule 60(b) motion and motion for rehearing. Because the district court found that Oberwise's Rule 60(b) motion was an impermissibly second or successive 28 U.S.C. § 2254 habeas corpus petition, his motion for a COA is DENIED AS UNNECESSARY. *See Hubbard v. Campbell*, 379 F.3d 1245 (11th Cir. 2004). Further, because Oberwise's appeal is frivolous, his motion for leave to proceed *in forma pauperis* is DENIED. *See Pace v. Evans*, 709 F.2d 1428 (11th Cir. 1983).

/s/ Robert J. Luck
UNITED STATES CIRCUIT JUDGE

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SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,
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Respondents - Appellees.

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

Before: WILSON and LUCK, Circuit Judges.

BY THE COURT:

Edward Oberwise has filed a motion for reconsideration of this Court's order dated September 30, 2021, denying his motion for a certificate of appealability as unnecessary and denying his motion to proceed *in forma pauperis*. Upon review, Oberwise'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
TAMPA DIVISION**

EDWARD DONALD OBERWISE,

Petitioner,

v.

Case No: 8:11-cv-1124-MSS-TGW

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

Respondents.

ORDER

THIS CAUSE comes before the Court for consideration of Petitioner's Motion for Rehearing, (Dkt. 73), and Petitioner's Motion to Correct Written Error on Rehearing ("Motion to Correct"). (Dkt. 74) In the Motion for Rehearing, Petitioner essentially seeks reconsideration of the Court's December 13, 2020 Order denying his Motion to Set Aside the Judgment (the "Court's Order"). (Dkt. 72) Petitioner, subsequently, filed the Motion to Correct, requesting the Court to amend a mistakenly written case law citation in his Motion for Rehearing. Upon consideration of all relevant filings, case law, and being otherwise fully advised, the Court **DENIES** Petitioner's Motion for Rehearing, (Dkt. 73), and **GRANTS** Petitioner's Motion to Correct. (Dkt. 74)


Rule 60(b) of the Federal Rules of Civil Procedure allows the Court to grant relief from judgment if the movant can demonstrate mistake, excusable neglect, newly discovered evidence, fraud, a void judgment, or any other reason that justifies relief. After considering the amended case law citation as requested in Petitioner's Motion to Correct, the Court concludes that Petitioner has not demonstrated any basis warranting reconsideration of the Court's Order. Petitioner has failed to satisfy the requirements of Rule 60(b) because he has not demonstrated a manifest error of law or fact or that any newly discovered evidence exists which warrants amendment of the Court's Order. Additionally, Petitioner merely reiterates arguments that the Court has already considered and rejected or raises new arguments that could have been raised prior to the entry of the Court's Order. Petitioner, therefore, fails to articulate a basis for rehearing, or reconsideration, of this matter.

Accordingly, it is hereby **ORDERED** as follows:

1. Petitioner's Motion for Rehearing, (Dkt. 73), is **DENIED**. If Petitioner is dissatisfied with the Court's Order and if the time for doing so has not expired, Petitioner may take advantage of the appropriate appeals process.

2. Petitioner's Motion to Correct, (Dkt. 74), is **GRANTED**. The Court has incorporated Petitioner's requested corrections to his Motion for Rehearing in consideration of this Order.
3. This case shall remain **CLOSED**.

DONE and ORDERED in Tampa, Florida, this 20th day of April 2021.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person