Appendix

A

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 22-10544-F

HERVE WILMORE, JR.,

Petitioner-Appellant,

versus

UNITED STATES OF AMERICA,

Respondent-Appellee.

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

ORDER:

Hervé Wilmore, Jr. moves for a certificate of appealability ("COA") and leave to proceed *in forma pauperis* ("IFP"), in order to appeal the district court's denial of his *pro se* January 2022 Fed. R. Civ. P. 60(b) motion for reconsideration of the denial of his motion to amend his 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence. To obtain a COA, Wilmore must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Wilmore's motion for a COA is DENIED because he failed to make the requisite showing, and his motion for leave to proceed *in forma pauperis* is DENIED AS MOOT.

/s/ Andrew L. Brasher
UNITED STATES CIRCUIT JUDGE

Appendix

B

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 22-10544-F

HERVE WILMORE, JR.,

Petitioner - Appellant,

versus

UNITED STATES OF AMERICA,

Respondent - Appellee.

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

Before: JORDAN and BRASHER, Circuit Judges.

BY THE COURT:

Hervé Wilmore, Jr., has filed a motion for reconsideration of this Court's May 18, 2022, order denying him a certificate of appealability. Upon review, Wilmore's motion is DENIED, as he has offered no new evidence or argument of merit to warrant reconsideration.

Appendix

C

Subject:Activity in Case 0:17-cv-60278-RNS Wilmore v. United States of America Order on Motion for Leave to File
This is an automatic e-mail message generated by the CM/ECF system.
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U.S. District Court
Southern District of Florida

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Case Name: Wilmore v. United States of America
Case Number: 0:17-cv-60278-RNS

Filer:

WARNING: CASE CLOSED on 04/12/2018

Document Number: 91

91(No document attached)

Docket Text:
PAPERLESS ORDER striking the Movant's [90] Motion for Leave and [90-1] Motion for Relief from Final Judgment. In light of filing "repeated... virtually identical frivolous motions," the Court enjoined the Movant from filing any motions attacking "any previous order entered in this case." Here, the Movant once again attacks the Court's finding that his amended claim did not relate-back to the original motion to vacate. (ECF No. 45) (adopting Report and Recommendation (ECF No. 41)). The Eleventh Circuit reviewed the issue and determined the Court did not abuse its discretion. (ECF No. 56 at 4) ("[T]he district court did not abuse its discretion in determining that the amendment did not relate back to [the Movant's] original § 2255 motion because the proposed amendment did not arise out of the conduct or occurrence in the original pleading, as it dealt primarily with an assertion of insufficient evidence at trial, while the original § 2255 motion dealt with the indictment."). Moreover, the Court previously denied the Movant's attempts to challenge the Court's finding. (ECF No. 64 at 1). In any event, the Motion is due to be denied because a motion for relief from final judgment should not be used as a vehicle "to relitigate old matters, raise argument or present evidence that could have been raised prior to the entry of judgment." Michael Linet, Inc. v. Vill. of Wellington, 408 F.3d 757, 763 (11th Cir. 2005). Signed by Judge Robert N. Scola, Jr (crn)