

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

August 04, 2022

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-50098 Redmond v. Lumpkin
USDC No. 5:20-CV-803

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk

Lisa E. Ferrara

By: Lisa E. Ferrara, Deputy Clerk
504-310-7675

Mr. Edward Larry Marshall
Mr. Randell Joseph Redmond

United States Court of Appeals
for the Fifth Circuit

No. 22-50098

United States Court of Appeals
Fifth Circuit

FILED

August 4, 2022

Lyle W. Cayce
Clerk

RANDELL JOSEPH REDMOND,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,*
Correctional Institutions Division,

Respondent—Appellee.

Application for Certificate of Appealability from the
United States District Court for the Western District of Texas
USDC No. 5:20-CV-803

ORDER:

Randell Joseph Redmond, Texas prisoner # 00727110, was convicted of murder. He moves for a certificate of appealability (COA) to appeal the district court's dismissal of his Federal Rule of Civil Procedure 60(b) motion as an unauthorized successive 28 U.S.C. § 2254 application challenging his conviction.

Redmond contends that his Rule 60(b) motion is not successive because he has newly available evidence that would have allowed him to raise an exculpatory defense at trial. He also appears to argue that his motion is not successive because he sought to challenge a defect in his federal habeas

No. 22-50098

proceedings rather than his judgment of conviction and that a COA was unnecessary for an appeal. Finally, he asserts that he may proceed because he is actually innocent.

To obtain a COA, Redmond must make "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). When, as in this case, the district court denies relief on procedural grounds, a COA should issue if the movant 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." *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Redmond has not made the required showing. Accordingly, his motion for a COA is DENIED.

In light of Redmond's failure to heed this court's prior sanction warnings, he is ORDERED to pay a sanction of \$200 to the Clerk of this Court, and he is BARRED from filing in this court or any court subject to this court's jurisdiction, a challenge to his murder conviction and sentence until the sanction is paid in full, unless he first obtains leave of the court in which he seeks to file such challenge. Redmond is once again WARNED that the filing of repetitive or frivolous pleadings in this court or the district court could result in additional sanctions, including dismissal, monetary sanctions, and restrictions on his ability to file pleadings in this court and any court subject to this court's jurisdiction.



ANDREW S. OLDHAM
United States Circuit Judge

January 07, 2022

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXASUNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISIONBY: _____ **JU**
DEPUTYRANDELL JOSEPH REDMOND,
TDCJ No. 0727110,*Petitioner,*

v.

CIVIL NO. SA-20-CV-803-OLG

BOBBY LUMPKIN,¹ Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,*Respondent.***ORDER**

Before the Court is *pro se* Petitioner Randell Joseph Redmond's Motion for Relief from Judgment Pursuant to Federal Rules of Civil Procedure 60(b) and 52(b). (Dkt. No. 25). Since 1999, Petitioner has filed numerous federal habeas corpus petitions pursuant to 28 U.S.C. § 2254 seeking to challenge his 1995 state murder conviction. On July 23, 2020, this Court dismissed Petitioner's most recent § 2254 petition and Rule 60(b) motion for lack of jurisdiction because the pleadings were successive petitions and Petitioner had not obtained prior approval from the Fifth Circuit to file them. (Dkt. No. 6). For the same reason, the Court now lacks jurisdiction over Petitioner's current motion.

It is therefore **ORDERED** that Petitioner's Motion for Relief from Judgment, filed December 27, 2021 (Dkt. No. 25), is **DISMISSED**.

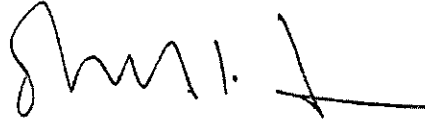
It is further **ORDERED** that a certificate of appealability is **DENIED** for the instant motion, as reasonable jurists could not debate the denial of Petitioner's motion on substantive or

¹ The previous named Respondent in this action was Lorie Davis. On August 10, 2020, Bobby Lumpkin succeeded Davis as Director of the Texas Department of Criminal Justice, Correctional Institutions Division. Under Rule 25(d) of the Federal Rules of Civil Procedure, Lumpkin is automatically substituted as a party.

procedural grounds, nor find that the issues presented are adequate to deserve encouragement to proceed. *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

It is so **ORDERED**.

SIGNED this the 7th day of January, 2022.

A handwritten signature in black ink, appearing to read 'Orlando L. Garcia', written over a horizontal line.

ORLANDO L. GARCIA
Chief United States District Judge

United States Court of Appeals
for the Fifth Circuit

No. 22-50098

RANDELL JOSEPH REDMOND,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, DIRECTOR, TEXAS DEPARTMENT OF
CRIMINAL JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 5:20-CV-803

ON MOTION FOR RECONSIDERATION
AND REHEARING EN BANC

Before HAYNES, ENGELHARDT, and OLDHAM, *Circuit Judges.*

PER CURIAM:

The motion for reconsideration is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R. APP. P. 35 and 5TH CIR. R. 35), the petition for rehearing en banc is DENIED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

September 06, 2022

MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 22-50098 Redmond v. Lumpkin
USDC No. 5:20-CV-803

Enclosed is an order entered in this case.

See FRAP and Local Rules 41 for stay of the mandate.

Sincerely,

LYLE W. CAYCE, Clerk

Renee S. McDonough

By: _____
Renee S. McDonough, Deputy Clerk
504-310-7673

Mr. Philip Devlin
Mr. Edward Larry Marshall
Mr. Randell Joseph Redmond

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