

ALD-091

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 22-3097

TORMU E. PRALL, Appellant

VS.

ATTORNEY GENERAL NEW JERSEY, ET AL.

(D.N.J. Civ. No. 3:18-cv-02614)

Present: HARDIMAN, RESTREPO, and BIBAS, Circuit Judges

Submitted are:

- (1) Appellant's request for a certificate of appealability under 28 U.S.C. § 2253(c)(1); and
- (2) Response by Appellee in the above-captioned case.

Respectfully,
Clerk

ORDER

The foregoing application for a certificate of appealability is denied. See 28 U.S.C. § 2253(c); Bracey v. Superintendent Rockview SCI, 986 F.3d 274, 282 (3d Cir. 2021). Jurists of reason would not debate the District Court's ruling that Appellant was not entitled to relief under Federal Rule of Civil Procedure 60(b) from its prior order dismissing his habeas petition as procedurally defaulted. Specifically, Appellant failed to show that there were "extraordinary circumstances where, without [Rule 60(b)] relief, an extreme and unexpected hardship would occur." Cox v. Horn, 757 F.3d 113, 120 (3d Cir. 2014) (citation and quotations omitted); see also Gonzalez v. Crosby, 545 U.S. 524, 535 (2005). Furthermore, to the extent that Appellant sought to present a claim for habeas relief, the District Court lacked jurisdiction to consider it. See Gonzalez, 545 U.S. at 531-32.

By the Court,

s/L. Felipe Restrepo
Circuit Judge

Dated: March 3, 2023
Tmm/cc: Tormu E. Prall



A True Copy:

Patricia S. Dodszeit

Patricia S. Dodszeit, Clerk
Certified Order Issued in Lieu of Mandate

Jennifer K. Kmieciak, Esq.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 22-3097

TORMU E. PRALL,
Appellant

v.

ATTORNEY GENERAL NEW JERSEY;
ADMINISTRATOR NEW JERSEY STATE PRISON

(D.C. Civ No. 3-18-cv-02614)

SUR PETITION FOR REHEARING

Present: CHAGARES, JORDAN, HARDIMAN, GREENAWAY, JR., SHWARTZ,
KRAUSE, RESTREPO, BIBAS, PORTER, MATEY, PHIPPS, FREEMAN,
MONTGOMERY-REEVES and CHUNG, 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/ L. Felipe Restrepo
Circuit Judge

Date: May 25, 2023

Tmm/cc: Tormu E. Prall

Jennifer E. Kmiecical, Esq.