

Appendix A.

[DO NOT PUBLISH]

In the
United States Court of Appeals
For the Eleventh Circuit

No. 22-12726

Non-Argument Calendar

CARLOS L. WOODSON,

Petitioner-Appellant,

versus

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:02-cv-21921-PAS

Before NEWSOM, GRANT, and LUCK, Circuit Judges.

PER CURIAM:

Carlos Woodson appeals the district court's order dismissing his fifth Federal Rule of Civil Procedure 60(b) motion for lack of jurisdiction as an unauthorized successive petition for habeas corpus. After careful consideration, we affirm.

In 1996, a jury convicted Woodson for burglary and sexual battery. Florida's Third District Court of Appeal affirmed the conviction, and the Supreme Court of Florida denied review. *Woodson v. State*, 739 So.2d 1210 (Fla. Dist. Ct. App.), *review denied*, 749 So. 2d 505 (Fla. 1999).

In 2002, Woodson filed his federal habeas petition in the district court challenging his convictions. Among other things, Woodson claimed that the information the state attorney filed to bring charges was invalid because it was not based on sworn statements made by material witnesses as required by Florida's rules of criminal procedure. The magistrate judge recommended denying the petition because Woodson was not entitled to relief based on the alleged insufficiency of the charging information. And the district court adopted the recommendation and denied the habeas petition.

Twelve years later, Woodson filed a rule 60(b) motion, seeking to vacate the habeas order as void because the district court lacked subject-matter jurisdiction to hear the habeas petition. Woodson argued that because the charging information was void,

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60(b) motion because the state court's judgment was void. But the judgment-is-void argument is an attack on the district court's merits determination that no grounds existed "entitling [Woodson] to habeas corpus relief." *See id.* By asserting that the district court's previous merits determination "was in error" because the underlying judgment was void, Woodson was effectively "making a habeas corpus claim" that could not be raised in a successive petition without our permission. *See id.*

Second, Woodson maintains that his fifth rule 60(b) motion should not have been dismissed because he attacked the district court's statute of limitations and exhaustion rulings, and did not challenge the resolution of his habeas claims on the merits. But Woodson misunderstands the district court's habeas order. The district court did not make a "previous-ruling which precluded a merits determination," like "a denial for . . . failure to exhaust, procedural default, or statute-of-limitations bar." *Id.* The district court instead reached the merits of Woodson's habeas claim. By alleging that it was error to reach the merits of his habeas claim, as he does in his fifth rule 60(b) motion, because his claim was unexhausted and barred by the statute of limitations, Woodson does not attack "the integrity of the [habeas] proceedings, but in effect asks for a second chance to have the merits determined favorably." *See id.* at 532 n.5. Woodson does not get that second chance without our permission to file a successive claim. Because we never authorized Woodson to bring a successive claim, the district court correctly

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ruled that it lacked jurisdiction to hear the petition. *See Williams*,
510 F.3d at 1295.²

AFFIRMED.

² In his notice of appeal, Woodson also said he was appealing the denial of his rule 59 motion and the district court's imposition of restrictions on further pro se filings. But he has not raised these other issues in this initial brief, so we do not consider them on appeal. *See Sapuppo v. Allstate Floridian Ins. Co.*, 739 F.3d 678, 680–82 (11th Cir. 2014).

Appendix B.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-21921-CV-SEITZ

CARLOS L. WOODSON,

Petitioner,

v.

SECRETARY, FLORIDA DEPARTMENT OF
CORRECTIONS,

Respondent.

**ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION AND
AMENDED MOTION FOR RELIEF FROM JUDGMENT OR ORDER
(DE 141, 142)**

THIS MATTER is before the Court on Petitioner's Motion to Alter or Amend Judgment (DE 142) under Fed. R. Civ. P. 59(e) and Amended Motion for Relief from Judgment or Order (DE 141) under Fed. R. Civ. P. 60(b). The Court has considered Petitioner's filings, the record, and the applicable law. For the following reasons, the Rule 59(e) Motion and Rule 60(b) Motion are DENIED.

I. Background

A. *State Court Proceedings*

In 1998, Petitioner was sentenced to a term of life imprisonment following his convictions for burglary with an assault or battery while armed and two counts of sexual battery with a deadly weapon or force. (DE 12 at p. 32). On August 4, 1999, his judgment was *per curiam* affirmed on appeal. *Woodson v. State*, 739 So. 2d 1210, 1211 (Fla. 3d DCA 1999).

Petitioner pursued postconviction relief, appealing the denial of his Fed. R. Crim. P. 3.850 motion for postconviction relief. (*Id.* at pp. 127, 129). On February 14, 2001, the appellate court reversed and remanded for resentencing. *Woodson v. State*, No. 3D00-2255, 777 So. 2d 1167 (Fla. 3d DCA 2001). On March 17, 2001, Petitioner was resentenced to three concurrent terms of forty-five (45) years in prison (DE 12 at pp. 134-35). In 2002, the appellate court affirmed the resentencing judgment. *Woodson v. State*, No. 3D01-1338, 812 So. 2d 423 (Fla. 3d DCA Feb. 20, 2002) (unpublished table decision).

B. Petitioner's Federal Habeas Corpus Proceedings

After unsuccessful state habeas corpus proceedings, this federal proceeding commenced on June 27, 2002. (DE 1). In 2004, after Petitioner filed an Amended § 2254 Petition (DE 43), the Magistrate Judge entered a Supplemental Report recommending that federal habeas corpus relief be denied. (DE 56). Following *de novo* review, this Court affirmed the Magistrate Judge's recommendation, denied the Amended § 2254 Petition, and closed the case. (DE 60). The Court also denied Petitioner's subsequent requests for a certificate of appealability (DE 77, DE 83), and motion to proceed *in forma pauperis* on appeal (DE 89). Petitioner appealed, but then voluntarily dismissed his appeal in 2007. (DE 90).

In 2016, Petitioner filed a Rule 60(b) motion seeking vacatur of the 2004 Order denying his Amended § 2254 Petition and closing this case, together with a motion to expand the record. (DE 91, 92). The Court denied both motions and ordered that no certificate of appealability issue. (DE 93). Soon thereafter, Petitioner filed a second supplemental/amended Rule 60(b) motion asserting the same arguments raised in his first motion that the Court had

recently denied. (DE 95). On October 27, 2016, the Court denied the second motion. (DE 98).

Petitioner appealed, but the Eleventh Circuit affirmed the denial of the second motion.

(DE 108).

On November 19, 2018, Petitioner filed an application seeking permission to file a successive § 2254 Petition with the Eleventh Circuit. *In Re: Carlos Woodson*, No. 18-14811 (11th Cir. 2018). On December 6, 2018, the Eleventh Circuit denied Petitioner's application. *Id.* On March 8, 2019, the Eleventh Circuit denied Petitioner's second application seeking permission to file a successive § 2254 Petition. *In Re: Carlos Woodson*, No. 19-10599-E (11th Cir. 2019).

Petitioner filed a third Rule 60(b) motion and amended Rule 60(b) motion. (DE 112, 115). On August 10, 2020, the Court entered an Order denying as moot the third motion (DE 112) and dismissing the third amended motion (DE 115) for lack of subject matter jurisdiction, finding it was an unauthorized successive § 2254 petition. (DE 120 at p. 7). After Petitioner filed a motion for reconsideration (DE 123), a notice of appeal (DE 124), an amended application for certificate of appealability (DE 125), and motion for leave to appeal *in forma pauperis* (DE 126), the Court entered an Order denying the motions and amended application. (DE 128). On November 12, 2020, the Court denied Petitioner's motion to supplement the amended motion for certificate of appealability, finding in part that it too was a successive unauthorized habeas petition. (DE 131 at p. 6). Petitioner filed an amended notice of appeal seeking to appeal the Court's November 12, 2020 order. (132). On April 27, 2022, the Eleventh Circuit Court of Appeals affirmed the district court's dismissal of the third Rule 60(b) motion

and amended motion. *Woodson v. Sec'y, Dep't of Corr.*, No. 20-13405, 2022 WL 1234728,

*2-*3 (11th Cir. Apr. 27, 2022) (per curiam).

Petitioner filed a fourth Rule 60(b) "Motion for Relief from Judgment or Order."

(DE 137). Therein, Petitioner argued that the Court lacked subject matter jurisdiction to enter the 2004 Order denying his amended habeas petition. (*Id.* at p. 2). On May 16, 2022, Petitioner filed a fourth Amended Rule 60(b) "Motion for Relief from Judgment or Order," which supersedes the previously filed and pending fourth Rule 60(b) motion. (DE 138). In the fourth Amended Rule 60(b) motion, Petitioner reiterates that the Court lacked subject matter jurisdiction to enter the 2004 Order denying his amended habeas petition. (*Id.* at p. 2).

Petitioner maintained the Court was procedurally barred from addressing a claim that was the subject of a procedural default in the state courts. (*Id.* at pp. 3-4). He requested vacatur of the 2004 Order and entry of an Order remanding this case back to the state appellate court for consideration of the defaulted claim. (*Id.* at p. 4). On May 23, 2022, the Court entered an Order denying the fourth motion and amended motion. (DE 139). Because Petitioner had repeatedly and vexatiously filed frivolous, non-meritorious motions, the Court cautioned Petitioner that he may be restricted from filing any future *pro se* motions in this case. (*Id.* at p. 7).

Undeterred, Petitioner filed this latest fifth Rule 60(b) Motion (DE 141) together with a Rule 59(e) Motion (DE 142) on June 14, 2022 which are presently before the Court for consideration.

district court to consider the petition. *Osbourne v. Sec'y, Fla. Dep't of Corr.*, 968 F.3d 1261, 1264 (11th Cir. 2020) (alterations added; citing 28 U.S.C. § 2244(b)(3)(A)). Absent authorization from the Eleventh Circuit, the district court lacks jurisdiction to consider a second or successive habeas petition. See *Wallace v. Att'y Gen. of Ala.*, 825 F. App'x 737, 738 (11th Cir. 2020) (citing *Burton v. Stewart*, 549 U.S. 147, 152-53 (2007)). As the Supreme Court made clear in *Gonzalez v. Crosby*, a Rule 60(b) is treated as a successive habeas petition if it: (1) "seeks to add a new ground of relief;" or (2) "attacks the federal court's previous resolution of a claim on the merits." *Gonzalez v. Crosby*, 545 U.S. 524, 532 (2005); see also *United States v. Saint Surin*, 693 F. App'x 787, 789 (11th Cir. 2017) (per curiam).

Petitioner's current fifth Amended Rule 60(b) Motion is, in legal effect, a successive § 2254 Petition.¹ The arguments raised in this fifth Amended Rule 60(d) Motion are either claims previously rejected or claims that could have been but were not previously raised. Since the § 2254 Petition was previously denied on the merits, Petitioner must first seek permission from the United States Eleventh Circuit Court of Appeals for authorization to file a second or successive § 2254 Petition. See Rule 9 of the Rules Governing § 2254 Proceedings in the District Courts; 28 U.S.C. § 2244(b)(3)(A); *Burton v. Stewart*, 549 U.S. 147, 153 (2007). Petitioner has

¹ Under Rule 60(d), Petitioner may move to set aside a judgment for fraud on the court. See *Baker v. United States*, 791 F. App'x 884, 885-86 (11th Cir. 2020) (per curiam) (quoting Fed. R. Civ. P. 60(d)(3)). A Rule 60(d) motion must challenge some defect in the integrity of the federal habeas corpus proceedings. *Gonzalez*, 545 U.S. at 532. Petitioner does not attack the integrity of the proceedings but challenges the Court's prior resolution of the claims on the merits or seeks to add a new ground for relief, therefore, the filing must be treated as a federal habeas petition pursuant to 28 U.S.C. § 2254. See *Gonzalez*, 545 U.S. at 532.

not demonstrated that he has obtained prior authorization from the court of appeals to file a successive § 2254 petition. See *In re Davis*, 565 F.3d 810, 816 (11th Cir. 2009). Therefore, this Court lacks jurisdiction to consider this latest filing, which is properly construed as seeking relief pursuant to § 2254. Because his fifth Amended Rule 60(b) Motion (DE 141) is not appropriate in these instances, it is DISMISSED for lack of jurisdiction.

C. *Restricted Filer Status*

No matter the label, Petitioner continues to seek reconsideration of the denial of his § 2254 habeas corpus petition. Plaintiff has ignored the Court's prior order and vexatiously filed yet another frivolous, non-meritorious motion in this closed case. Thus, Plaintiff is hereby restricted from filing any future *pro se* filings in this case. This injunctive restriction is essential and prudent to avoid conduct that impairs the rights of other litigants and the Court's ability to effectively carry out its Article III functions. See *Simmons v. Warden*,² 589 F. App'x 919, 923 (11th Cir. 2014)(per curiam)(citing *Procup v. Strickland*, 792 F.2d 1069, 1071, 1073 (11th Cir. 1986)(en banc)(per curiam); see also, *Sassower v. Fidelity & Deposit Co.*, 49 F.3d 1482, 1483 (11th Cir. 1995)(directing Clerk of Court to refuse any further filings from appellant who had repeatedly filed frivolous petitions for certiorari and applications to proceed *in forma pauperis* unless the appellant paid the Clerk's filing fee or obtained a certification from the district court that his appeal was not frivolous).

² In *Simmons*, the Eleventh Circuit made clear district courts have the discretion to order the Clerk not to accept any further filings from a *pro se* litigant who has repeatedly and vexatiously challenged his federal convictions and sentences. *Simmons*, 589 F. App'x at 923.

III. Certificate of Appealability

Rule 11(a) of the Rules Governing Section 2254 Cases in the United States District Courts provides that a federal district court must issue or deny a certificate of appealability when it enters a final order adverse to the Petitioner. In a habeas corpus proceeding, a district court's denial of a Rule 60 motion constitutes a final order which requires a certificate of appealability under 28 U.S.C. § 2253(c)(1)). *Gonzalez v. Sec'y for the Dep't of Corr.*, 366 F.3d 1263-64 (11th Cir. 2004) (en banc). "A certificate of appealability 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). Petitioner has made no such showing. Accordingly, a certificate of appealability shall not issue.

Therefore, based on the foregoing discussion, it is

ORDERED that:

- (1) Petitioner Rule 59(e) "Motion to Alter or Amend Judgment" (DE 142) is DENIED.
- (2) Petitioner's fifth "Amended Motion for Relief from Judgment or Order" under Rule 60(b) (DE 141) is DISMISSED for lack of jurisdiction.
- (3) No certificate of appealability shall issue.
- (4) Petitioner is RESTRICTED from filing any further *pro se* pleadings in this case; and,
- (5) The Clerk is instructed to no longer accept any filings from the Petitioner in this case.

DONE AND ORDERED in Miami, Florida, this 14th day of July, 2022.


PATRICIA A. SEITZ
United States Senior District Judge

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Appendix C.

In the
United States Court of Appeals
For the Eleventh Circuit

No. 22-12726

CARLOS L. WOODSON,

Petitioner-Appellant,

VERSUS

SECRETARY, FLORIDA DEPARTMENT OF CORRECTIONS,

Respondent-Appellee.

Appeal from the United States District Court
for the Southern District of Florida
D.C. Docket No. 1:02-cv-21921-PAS

ON PETITION FOR REHEARING AND PETITION FOR
REHEARING EN BANC

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Order of the Court

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Before NEWSOM, GRANT, and LUCK, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. FRAP 35. The Petition for Panel Rehearing also is DENIED. FRAP 40.

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