

**IN THE
SUPREME COURT OF THE UNITED STATES**

Christopher Takhvar - Petitioner

vs

Secretary, Department of Corrections
Florida Attorney General - Respondents

Case No: _____

APPENDIX OF EXHIBITS

APPENDIX A - Order Denying Certificate of Appealability

APPENDIX B - Order Denying Rehearing

APPENDIX C - Order Denying Rule 60 Motion U.S. District Court

APPENDIX D - Motion to Supplement the Record

APPENDIX E - Request for Certificate of Appealability

APPENDIX F - Deficiency Notice

APPENDIX G - Certificate of Interested Person (CIP)

APPENDIX H - Fed. R. Civ. P. Rule 60 Motion

APPENDIX I - Order Denying Motion to Recuse Magistrate

APPENDIX J - Order Denying 28 U.S.C. § 2254 Petition

APPENDIX K - Docket Case No. 5:21-cv-207-RBD-PRL

APPENDIX L - Second Amended Civil Complaint

APPENDIX M - Amended Motion for Rehearing *En Banc*

APPENDIX N - Appendix to Motion for Rehearing *En Banc*; and Motion to Supplement the Record; and Fed. R. Civ. P. Rule 60 Motion (*Exhibits A-L)

*It should be noted the for Appendix N (*Exhibits A-L) are the Exhibits for:

- Motion for Rehearing En Banc;
- Motion to Supplement the Record
- Fed. R. Civ. P. Rule 60 Motion

A

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10009

CHRISTOPHER L. TAKHVAR,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
FLORIDA ATTORNEY GENERAL,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 5:21-cv-00207-RBD-PRL

ORDER:

Christopher Takhvar, a Florida prisoner, is appealing the district court's denial of his motion for reconsideration/classification of his 28 U.S.C. § 2254 petition. Takhvar now moves for a certificate of appealability ("COA"), to proceed *in forma pauperis* ("IFP"), and to supplement the record.

Here, reasonable jurists would not debate that the court did not abuse its discretion when it denied Takhvar's motion pursuant to Fed. R. Civ. P. 60(b)(3). The court properly construed Takhvar's motion as a motion for reconsideration, as he was asking the court to vacate and reconsider its order denying his § 2254 petition. While the court did not specifically discuss Rule 60(d)(3), it appears that the analysis under that subsection would be the same as to Rule 60(b)(3). *See Mills v. Comm'r, Ala. Dep't of Corr.*, 102 F.4th 1235, 1239-40 (11th Cir. 2024); *Waddell v. Hendry Cnty. Sheriff's Off.*, 329 F.3d 1300, 1309 (11th Cir. 2003).

Concerning the timeliness requirement under Rule 60(b)(3), the court properly found that Takhvar's motion was untimely because he did not file his motion until November 19, 2024, but the court had denied his § 2254 petition on March 1, 2023, and thus, he filed his motion after the one-year deadline. *See Fed. R. Civ. P. 60(c)(1)*.

As to the merits of the motion, the court correctly concluded that he did not "prove by clear and convincing evidence that the [state] obtained the verdict through fraud, misrepresentations, or other misconduct" or that the state's alleged fraud prevented him from fully presenting his case. *See Waddell*, 329 F.3d at 1309.

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Order of the Court

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Specifically, the court properly determined that the fact that there was a federal search warrant, signed by the same magistrate judge, in a different case did not prevent him from fully litigating his § 2254 petition, and the failure to disclose the judge's signature on that unrelated warrant did not affect the outcome of his habeas proceedings. Further, the court correctly found that Takhvar's motion was reiterating his previous argument for why his § 2254 petition should have been granted.

Accordingly, Takhvar's motion for COA is DENIED and his motion for IFP and to supplement the record are DENIED AS MOOT.

/s/ Nancy G. Abudu

UNITED STATES CIRCUIT JUDGE

B

In the
United States Court of Appeals
For the Eleventh Circuit

No. 25-10009

CHRISTOPHER L. TAKHVAR,

Petitioner-Appellant,

versus

SECRETARY, DEPARTMENT OF CORRECTIONS,
FLORIDA ATTORNEY GENERAL,

Respondents-Appellees.

Appeal from the United States District Court
for the Middle District of Florida
D.C. Docket No. 5:21-cv-00207-RBD-PRL

Before LUCK and ABUDU, Circuit Judges.

BY THE COURT:

Pursuant to 11th Cir. R. 22-1(c) and 27-2, Christopher Takhvar moves for reconsideration of this Court's June 26, 2025, order denying his motion for a certificate of appealability and denying as moot his motions to proceed *in forma pauperis* and to supplement the record, on appeal from the denial of his motion for reconsideration/clarification of the denial of his 28 U.S.C. § 2254 petition. Upon review, Takhvar's motion is DENIED because he offers no new evidence or meritorious arguments as to why this Court should reconsider its previous order.

C

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

CHRISTOPHER L TAKHVAR,

Petitioner,

v.

Case No: 5:21-cv-207-RBD-PRL

SECRETARY, DEPARTMENT OF
CORRECTIONS and FLORIDA
ATTORNEY GENERAL,

Respondents.

_____ /

ORDER

By Order dated March 1, 2023, Takhvar's habeas petition was denied, and the case was dismissed with prejudice. (Doc. 29). Takhvar appealed, and the Eleventh Circuit denied his motion for a certificate of appealability and denied as moot his motion for leave to proceed on appeal *in forma pauperis*. (Doc. 35). Pending before the Court is Takhvar's Motion for Relief from Judgment or Order. (Doc. 37). He seeks relief under Rule 60(b)(3), Fed. R. Civ. P., claiming the Respondent committed a fraud upon the Court by stating that "No United States District Court Judge or United States Magistrate Judge currently assigned to this case was involved in any of Petitioner's state court proceedings." (Doc. 37 at 5).

To prevail on a 60(b)(3) motion, the movant must "prove[] by clear and convincing evidence that an adverse party has obtained the verdict through fraud,

misrepresentation, or other misconduct.” *Cox Nuclear Pharmacy, Inc. v. CTI, Inc.*, 478 F.3d 1303, 1314 (11th Cir. 2007) (quoting *Frederick v. Kirby Tankships, Inc.*, 205 F.3d 1277, 1287 (11th Cir. 2000)). The movant must also show that the opposing party's fraud prevented him from fully presenting his case. *Id.* Only egregious misconduct, such as an unconscionable scheme to influence the court's decision, will constitute a fraud on the court. *Rozier v. Ford Motor Co.*, 573 F.2d 1332, 1338 (5th Cir. 1978).¹

All motions under Rule 60(b) must be made “within a reasonable time.” Fed. R. Civ. P. 60(c)(1). In addition to the “reasonable time” requirement, motions under Rule 60(b)(3) have a strict one-year deadline for filing. *Id.* Here, Takhvar’s habeas petition was denied on March 1, 2023. The instant motion was untimely filed on November 19, 2024. *See* Doc. 37 at 66.

Even if the motion was timely, Takhvar fails to show the Respondent obtained a favorable result by clear and convincing evidence, nor does his demonstrate that the Respondent’s alleged “fraud” prevented him “from fully presenting his case.” Here, the fact that Judge Lammens signed a search warrant in a separate case, did not prevent Takhvar from fully litigating his habeas petition. Moreover, the failure to disclose, inadvertent or otherwise, Judge Lammens’s

¹ All Fifth Circuit decisions prior to September 30, 1981, are binding precedent in this Court. *Bonner v. City of Prichard*, 661 F.2d 1206, 1207 (11th Cir. 1981) (en banc).

signature on an unrelated search warrant did not affect the outcome of this § 2254 habeas case.

Finally, “[a] motion to reconsider is not a vehicle for rehashing arguments the Court has already rejected or for attempting to refute the basis for the Court's earlier decision.” *Parker v. Midland Credit Mgmt., Inc.*, 874 F. Supp. 2d 1353, 1359 (M.D. Fla. 2012); *see also Michael Linet, Inc. v. Vill. of Wellington*, 408 F.3d 757, 763 (11th Cir. 2005). “A motion to reconsider should raise new issues, not merely redress issues previously litigated.” *PaineWebber Income Props. Three Ltd. P'ship v. Mobil Oil Corp.*, 902 F. Supp. 1514, 1521 (M.D. Fla. 1995); *see also Ludwig v. Liberty Mut. Fire Ins. Co.*, No. 8:03-cv-2378, 2005 WL 1053691, at *11 (M.D. Fla. Mar. 30, 2005) (stating “a motion for reconsideration is not the proper forum for [a] party to vent dissatisfaction with the Court's reasoning”).

Here, Takhvar merely takes issue with the Court's previous ruling and uses this motion to re-litigate an issue the Court already considered and rejected. Specifically, he previously moved to strike the Repondents' Response for containing the alleged false statement that no United States Magistrate Judge was involved in any of his state court proceedings. *See* Doc. 20 and Doc. 29 at 37. At its core, Takhvar's motion asks the Court to reassess its decision in denying that motion. Thus, Takhvar does not show that relief under Rule 60(b) is warranted.

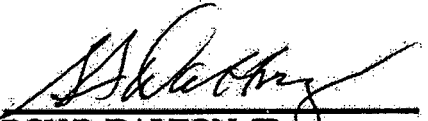
Upon due consideration, Takhvar's motion (Doc. 37) is DENIED.²

DONE and ORDERED in Orlando, Florida on December 16, 2024.

Copies:

Pro Se Party
Counsel of Record




ROY B. DALTON, JR.
United States District Judge

² The Court should issue a certificate of appealability only if a petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). To make this substantial showing, Jean-Philippe "must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong," *Tennard v. Dretke*, 542 U.S. 274, 282 (2004) (quoting *Slack v. McDaniel*, 529 U.S. 473, 84 (2000)), or that "the issues presented were 'adequate to deserve encouragement to proceed further,'" *Miller-El v. Cockrell*, 537 U.S. 322, 335-36 (2003) (quoting *Barefoot v. Estelle*, 463 U.S. 880, 893 n.4 (1983)). Upon due consideration, if Takhvar seeks issuance of a certificate of appealability, the undersigned opines that a certificate of appealability is not warranted.

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