

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
GEORGIA, COLUMBUS DIVISION

Alfred Starling v. Warden Darrin Myers

No. 4:22-cv-30-CDL-AGH (M.D. Ga. Feb. 23, 2026) · No. 4:22-cv-30-CDL-AGH · Decided February 23, 2026

SUMMARY

The United States District Court for the Middle District of Georgia denied Alfred Starling’s application for a certificate of appealability concerning the denial of his Federal Rule of Civil Procedure 60(b) motion and motion to stay. The court concluded that no reasonable jurist could debate the denial of Rule 60(b) relief or the denial of a stay pending state habeas proceedings. The order was entered on February 23, 2026.

CASE DETAILS

COURT	United States District Court for the Middle District of Georgia, Columbus Division
WRITING FOR THE COURT	Clay D. Land
JURISDICTION	United States District Court for the Middle District of Georgia, Columbus Division
DECIDED	February 23, 2026
DOCKET	4:22-cv-30-CDL-AGH
DISPOSITION	cert_denied
PROCEDURAL POSTURE	Petitioner sought a certificate of appealability to appeal the denial of his Federal Rule of Civil Procedure 60(b) motion for relief from the dismissal of his 28 U.S.C. § 2254 petition and the denial of his motion to stay consideration of the Rule 60(b) motion.
STANDARD OF REVIEW	A certificate of appealability may issue only upon a substantial showing of the denial of a constitutional right. For a Rule 60(b) motion in a § 2254 proceeding, the applicant must show both that reasonable jurists could debate whether the petition states a valid constitutional claim and that reasonable jurists could debate whether the district court correctly resolved the procedural ruling.
PRECEDENTIAL VALUE	Unknown; district court order with no reporter citation or stated precedential designation

PARTIES

Alfred Starling v. Warden Darrin Myers

TOPICS

federal habeas corpus

post-conviction relief

appellate procedure

standard of review

motion for reconsideration

PRACTICE AREAS

Federal habeas corpus

Post-conviction relief

Appellate procedure

Federal civil procedure

QUESTIONS PRESENTED

1. Whether Starling was entitled to a certificate of appealability to appeal the denial of his Rule 60(b) motion in the § 2254 proceeding.
2. Whether reasonable jurists could debate the district court's procedural ruling denying relief under Rule 60(b).
3. Whether Starling was entitled to a certificate of appealability concerning the denial of his motion to stay consideration of the Rule 60(b) motion pending state habeas proceedings.

HOLDINGS

1. A certificate of appealability is required to appeal the denial of a Rule 60(b) motion for relief from judgment in a proceeding under 28 U.S.C. § 2254.
2. Starling was not entitled to a certificate of appealability because no reasonable jurist could debate the district court's denial of Rule 60(b) relief or conclude that the appeal deserved further encouragement.
3. Starling was not entitled to a certificate of appealability concerning the denial of his motion to stay consideration of the Rule 60(b) motion.

KEY QUOTATIONS

“At the COA stage, the only question is whether the applicant has shown that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” (at 2)

“Thus, to obtain a COA, Petitioner must demonstrate the Court’s denial of his Rule 60(b) motion “is itself debatable among jurists of reason; otherwise, the appeal would not ‘deserve encouragement to proceed further.’” (at 3)

FACTUAL BACKGROUND

Starling's federal habeas petition was dismissed as untimely. After unsuccessful appellate and Supreme Court proceedings, he filed a Rule 60(b) motion asserting newly discovered evidence, fraud, and that the prior judgment was void because of alleged defects concerning a grand jury indictment and state-court subject-matter jurisdiction. He also sought a stay while a state habeas proceeding raising similar claims was pending. The

district court found that he had delayed filing the state habeas action despite having access to the relevant indictment and affidavit.

PROCEDURAL HISTORY

The district court dismissed Starling's § 2254 petition as untimely on October 17, 2022. The Eleventh Circuit denied a certificate of appealability, and the Supreme Court denied certiorari and rehearing. Starling then filed a Rule 60(b) motion based on alleged newly discovered evidence and fraud, along with a motion to stay consideration pending state habeas proceedings. After adopting the magistrate judge's recommendation following de novo review, the district court denied both motions. The court denied Starling's subsequent application for a certificate of appealability.

DISPOSITION

cert_denied

CASES CITED

- Gonzalez v. Sec'y for Dep't of Corr., 366 F.3d 1253, 1263 (11th Cir. 2004)
- Lambrix v. Sec'y, Fla. Dep't of Corr., 851 F.3d 1158, 1169-70 (11th Cir. 2017)
- Slack v. McDaniel, 529 U.S. 473, 484 (2000)
- Buck v. Davis, 580 U.S. 100, 115, 123 (2017)

OPINION

FINO TRH TEH UEN MITIDEDDL SET DAITSETSR DICISTT ORFIC GTE COORUGRIAT COLUMBUS DIVISION ALFRED STARLING,: Petitioner,: VS.: NO. 4:22-cv-30-CDL-AGH Warden DARRIN MYERS,: Respondent.: ORDER Petitioner filed an Application for a Certificate of Appealability ("COA") (ECF No. 46) to appeal the Court's denial of his "Motion for Relief from Judgment Under Rule 60" (ECF No. 41) and his "Motion to Stay Consideration of Petitioner's Rule 60(b) Motion Pending Disposition of State CPC Proceedings" (ECF No. 44).

As discussed below, a COA is DENIED. I. PROCEDURAL HISTORY Petitioner's 28 U.S.C. § 2254 petition was dismissed as untimely on October 17, 2022. ECF No. 29. The United States Court of Appeals for the Eleventh Circuit denied a COA on May 10, 2023. ECF No. 38.

The United States Supreme Court denied his petition for a writ of certiorari on January 8, 2024, and his petition for rehearing on March 18, 2024. ECF Nos. 39, 40. Petitioner filed a motion to set aside judgment pursuant to Federal Rule of Civil Procedure 60 on August 12, 2025, arguing that he is entitled to relief from judgment based 1 on newly discovered evidence and fraud.

ECF No. 41 at 4-5. The United States Magistrate Judge recommended denying the motion because (1) Petitioner's assertions were factually flawed in several respects; (2) the motion was untimely

filed; (3) Petitioner was not entitled to relief under Rule 60(b)(4) based on a void judgment; and (4) Petitioner was not entitled to relief under Rule 60(b)(3) based on fraud on the court.

ECF No. 42. Petitioner objected to the Recommendation. ECF No. 45. He also moved for an order staying consideration of his Rule 60(b) motion “until the Supreme Court of Georgia rules on Petitioner's Application for Certificate of Probable Cause to Appeal.” ECF No. 44 at 1. He explained that after filing his Rule 60(b) motion in this Court, he filed a state habeas petition in the Superior Court of Wilcox County raising the same grounds for relief.

Id. The state trial court had already dismissed the petition but his Application for a Certificate of Probable Cause to Appeal the denial of habeas relief was pending in the Georgia Supreme Court. Id. Following a de novo review, the District Court adopted the Report and Recommendation and denied Petitioner’s Rule 60 motion. ECF No. 46.

The Court also denied Petitioner’s Motion to Stay because Petitioner failed to demonstrate circumstances warranting a stay. Id. II. COA STANDARD AND ANALYSIS Petitioner argues he is entitled to a COA because reasonable jurists could debate (1) whether the District Court should have determined if “the state trial court possessed subject-matter jurisdiction where the record lacks proof of a valid grand jury indictment 2 and jurisdiction was challenged as void on the face of the record”; (2) whether the District Court conducted a de novo review of his objection to the Report and Recommendation; (3) whether the District Court “erred by shifting the burden to Petitioner to disprove the existence of a valid grand jury indictment”; (4) “whether the District Court erred in denying Rule 60(b) relief where the prior habeas dismissal rested on procedural grounds without resolving whether the court had authority to act, thereby implicating defects in the integrity of the federal habeas proceeding rather than the underlying conviction”; and (5) “whether the District Court abused its discretion by denying a stay despite Petitioner's pending state proceedings challenging subject-matter jurisdiction and the risk of inconsistent rulings between state and federal courts.” ECF No. 47 at 1-2. “[A] certificate of appealability is required for the appeal of any denial of a Rule 60(b) motion for relief from a judgment in a § 2254... proceeding.” *Gonzalez v. Sec’y for Dep’t of Corr.*, 366 F.3d 1253, 1263 (11th Cir.

2004). The Court may grant a COA “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “At the COA stage, the only question is whether the applicant has shown that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Lambrix v. Sec’y, Fla. Dep’t of Corr.*, 851 F.3d 1158, 1169 (11th Cir.

2017) (citation omitted). “[T]he district court’s holding that [Petitioner] failed to demonstrate that he was entitled to have his judgment reopened under Rule 60(b)[] is a procedural ruling.” Id. (citation omitted).

To obtain a COA in this 3 situation, Petitioner must demonstrate “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).

Thus, to obtain a COA, Petitioner must demonstrate the Court’s denial of his Rule 60(b) motion “is itself debatable among jurists of reason; otherwise, the appeal would not ‘deserve encouragement to proceed further.’” *Lambrix*, 851 F.3d at 1169 (quoting *Buck v. Davis*, 580 U.S. 100, 115 (2017)).

For reasons explained in the January 9, 2026 Report and Recommendation (ECF No. 42), which was adopted by this Court following a de novo review of the record and Petitioner’s objections (ECF No. 46), no reasonable jurist could “conclude that the District Court abused its discretion in declining to reopen the judgment.” *Lambrix*, 851 F.3d at 1170 (quoting *Buck*, 580 U.S. at 123).

Additionally, given the lack of circumstances warranting a stay and Petitioner’s lack of diligence in filing his state habeas action,¹ he has not shown that jurists of reason would find it debatable whether the Court was correct in its procedural ruling denying petitioner's motion to stay consideration of his Rule 60(b) motion until after the Georgia Supreme Court ruled on his Application for a Certificate of Probable Cause to Appeal.

¹ Petitioner filed his state habeas petition years after he had access to the indictment on which he based some of the claims and well over a year after he had the affidavit on which he based the remainder of his claims. ECF No. 14-1 (copy of indictment filed by Respondent on June 2, 2022); ECF No. 41-3 (another copy of same indictment filed by Petitioner to support current claims); ECF No. 41-5 (showing affidavit signed April 23, 2024); ECF No. 44 at 1 (Petitioner explaining that he filed the state habeas petition raising the same claims after he filed his Rule 60(b) motion in August 2025).

⁴ Accordingly, Petitioner’s Application for a COA (ECF No. 47) is DENIED. SO ORDERED, this 23rd day of February, 2026. S/ Clay D. Land CLAY D. LAND U.S. DISTRICT COURT JUDGE MIDDLE DISTRICT OF GEORGIA 5