

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

JOHNNY AL HUNTER, #609870

§

VS.

§

CIVIL ACTION NO. 4:93cv120

DIRECTOR, TDCJ-CID

§

MEMORANDUM OPINION AND ORDER

Petitioner filed another motion for relief from judgment (docket entry #47) pursuant to Fed. R. Civ. P. 60(b)(4). On August 9, 1994, United States District Judge Paul Brown dismissed Petitioner's case. On June 22, 1995, the Fifth Circuit Court of Appeals affirmed the District Court's judgment. Petitioner's case was reassigned to the undersigned United States District Judge. On September 30, 2010, this Court denied Petitioner's motion filed pursuant to Rule 60(b). He now files another motion pursuant to Rule 60(b).

In his Rule 60(b) motion, Petitioner asks that the Court grant relief from judgment. However, Petitioner has not shown that the failure to grant his motion for relief will result in a grave miscarriage of justice. He has not shown any adequate reason to reopen or revisit his case. Moreover, this case was dismissed more than seventeen years ago. "A motion under Rule 60(b) must be made within a reasonable time – and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding." Fed. R. Civ. P. 60(c)(1). Petitioner's motion was not filed within a reasonable time. Furthermore, on September 16, 2011,

the Fifth Circuit Court of Appeals denied Petitioner's motions for certificate of appealability and *in forma pauperis* (docket entry #43) because it found that this Court's prior denial of Petitioner's Rule 60(b) motion was correct. This case is closed. Petitioner should refrain from filing any further motions with this Court concerning this case.

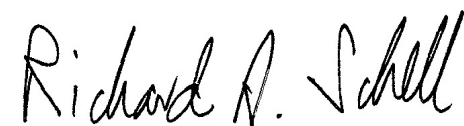
Petitioner also files a motion for leave to proceed *in forma pauperis* on appeal (docket entry #49). However, he has not shown that he is entitled to a certificate of appealability; thus, he also has not shown that he is entitled to proceed *in forma pauperis* on appeal. *United States v. Delario*, 120 F.3d 580, 582 (5th Cir. 1997). It is accordingly

ORDERED that Petitioner's motion for reconsideration pursuant to Rule 60(b) (docket entry #47) is **DENIED**. It is further

ORDERED that a certificate of appealability is **DENIED**. Finally, it is

ORDERED that the motion to proceed *in forma pauperis* on appeal (docket entry #49) is **DENIED**. Petitioner should submit all future documents and/or motions in this case to the Fifth Circuit, as opposed to this Court. All motions not previously ruled upon are **DENIED**.

SIGNED this the 7th day of February, 2012.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE