Maxwell v. White Doc. 86

IN THE UNITED STATES DISTRICT COURT EASTERN DISTRICT OF ARKANSAS PINE BLUFF DIVISION

ROBERT T. MAXWELL,

PETITIONER

ADC#108778

v.

5:09-cv-00111-JMM-JJV

D. WHITE, Warden, Maximum Security Unit, Arkansas Department of Correction

RESPONDENT

ORDER

Before the Court is Petitioner's Motion for Certificate of Appealability (Doc. No. 85) regarding denial of his Motion for Reconsideration pursuant to Rule 60 of the Federal Rules of Civil Procedure (Doc. No. 84). For a petitioner to obtain a certificate of appealability, he or she must show 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). Notably, "[28 U.S.C. § 2253] mandates that both showings be made before the court of appeals may entertain the appeal." *Id.* Petitioner has not made the requisite showing mentioned above. As a result, his Motion (Doc. No. 85) is DENIED.

IT IS SO ORDERED this 30th day of July, 2012.

JOE J. VOLPE

UNITED STATES MAGISTRATE JUDGE