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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

LEE V. QUILLAR,

Plaintiff,

v.

RICK M. HILL,

Defendant.

Case No. 01CV968 BTM (BEN)

**ORDER RE CERTIFICATE OF
APPEALABILITY**

Petitioner has filed a Notice of Appeal from the Court's Order Denying Motion for Relief from Final Judgment. The Court construes this Notice of Appeal as a motion for the issuance of a certificate of appealability. See *Hawks v. Kane*, No. C 04-01822 JSW, 2006 U.S. Dist. LEXIS 90879, at *1-2 (N.D. Cal. Dec. 6, 2006).

When a district court dismisses a habeas petition solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both (1) "that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right" and (2) "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).

Petitioner has made no showing that reasonable jurists would find that the Court's decision to deny his Rule 60(b)(6) motion is debatable or wrong. See *Haynes v. United States*, No. PJM 02-3850, 2010 U.S. Dist. LEXIS 74017, at *4 (D. Md. July 21, 2010) (denying certificate of appealability where petitioner sought to appeal denial of Rule 60(b)(6)

1 motion as a successive habeas appeal); *United States v. Sheppard*, No. 10-6679, 2010 U.S.
2 App. LEXIS 17014 (4th Cir. S.C. Aug. 9, 2010) (same). Accordingly, a certificate of
3 appealability is **DENIED**.

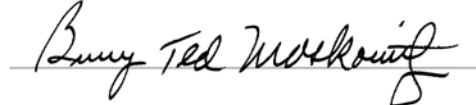
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5 **IT IS SO ORDERED.**

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DATED: December 30, 2010

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Honorable Barry Ted Moskowitz
United States District Judge

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