

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
ROCK ISLAND DIVISION**

TIMOTHY A. BROWN,)
)
Petitioner,)
)
v.)
)
UNITED STATES OF AMERICA,)
)
Respondent.)

Case No. 11-cv-4008
07-cr-40094

ORDER & OPINION

This matter is before the Court on Petitioner’s “Memorandum of Points and Authorities in Support of Application for Certificate of Appealability,” which the Court construes as either a request for reconsideration of the Court’s decision not to issue a Certificate of Appealability, or a request for the Court to reconsider its denial of Petitioner’s argument related to the administrative forfeiture of property. (11-cv-4008: Doc. 27). For the reasons stated below, the request is denied.

On October 12, 2011, the Court denied Petitioner’s Motion under 28 U.S.C. § 2255, and declined to issue a Certificate of Appealability. (11-cv-4008: Doc. 12). Following Petitioner’s filing of a Notice of Appeal, the Seventh Circuit also denied Petitioner’s request for a Certificate of Appealability, as Petitioner had made “no substantial showing of a denial of a constitutional right.” (11-cv-4008: Doc. 26 at 3). Petitioner’s instant Motion, dated November 20, 2012, makes no new arguments that would undermine these conclusions by this Court and the Court of Appeals.

Insofar as Petitioner requests reconsideration of the decision to deny a Certificate of Appealability, such request is denied.

Petitioner's Motion is labeled with the case number of his criminal case, 07-cr-40094, and refers to a Motion under Federal Rule of Civil Procedure 60(b). In Petitioner's criminal case, the Court on August 11, 2012 denied a second Motion purporting to be a Rule 60(b) Motion in that case, again explaining both that Rule 60(b) does not apply in criminal cases and that Petitioner's argument related to the administrative forfeiture of his property was meritless. (07-cr-40094: Doc. 52). The instant Motion, if construed as another attempt to have the Court reconsider these arguments, must be denied. Petitioner fails to recognize the Court's previous explanations of the fact that Rule 60(b) does not apply in criminal cases and that his underlying argument was without merit. He instead focuses on why the Court should overlook the fact that his "Rule 60(b) Motion" is untimely – a point that is irrelevant to the Court's previous denials of his requests for reconsideration.

IT IS THEREFORE ORDERED that Petitioner's "Memorandum of Points and Authorities in Support of Application for Certificate of Appealability" (11-cv-4008: Doc. 27) is DENIED. The Clerk is DIRECTED to docket the "Memorandum of Points and Authorities in Support of Application for Certificate of Appealability" and this Order in 07-cr-40094, as well. CASE TERMINATED.

Entered this 29th day of January, 2013.

s/ Joe B. McDade

JOE BILLY McDADE
United States Senior District Judge