

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

JUSTIN KRIVI,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

No. 10-CV-570-DRH

MEMORANDUM and ORDER

HERNDON, District Judge:

I. INTRODUCTION

Before the Court is petitioner Justin Krivi's motion for a certificate of appealability (Doc. 111) in relation to the Court's June 8, 2015, order denying relief pursuant to Federal Rule of Civil Procedure 60(b)(6) and motion for relief pursuant to Federal Rule of Civil Procedure 60(b)(4) (Doc. 110). Mr. Krivi has not filed a Notice of Appeal.

In the subject order, the Court found Mr. Krivi's 60(b)(6) motion was an unauthorized successive § 2255 petition and dismissed the same for lack of subject matter jurisdiction. With regard to Mr. Krivi's 60(b)(4) claims the Court found the motion must be dismissed because (1) Rule 60(b)(4) relief was not appropriate; (2) a violation of Rule 8(c), under the circumstances in Mr. Krivi's case, did not amount to a violation of due process; and (3) the motion was an unauthorized successive § 2255 petition.

Pursuant to § 2253, a certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” This requirement has been interpreted by the Supreme Court to mean that an applicant must show that “reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). Thus, Mr. Krivi need not show that his appeal will succeed, but he must show “something more than the absence of frivolity” or the existence of mere “good faith” on his part. *Miller–El v. Cockrell*, 537 U.S. 322, 337, 338 (2003). If the district court denies the request, a petitioner may request that a circuit judge issue the certificate of appealability. FED. R. APP. P. 22(b)(1)-(3).

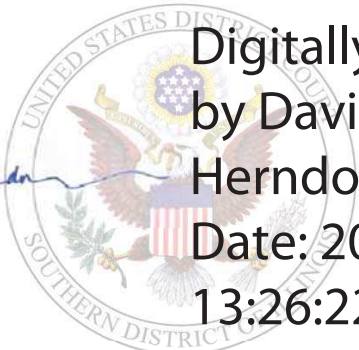
For the reasons detailed in the Court’s order issued on June 8, 2015, the Court has determined that Mr. Krivi has not made “a substantial showing of the denial of a constitutional right.” Accordingly, Mr. Krivi’s request for a certificate of appealability is **DENIED**.

For the reasons discussed herein, the Court **DENIES** Mr. Krivi’s request for a certificate of appealability.

IT IS SO ORDERED.

Signed this 1st day of July, 2015.

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United States District Court