

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

JOHN LEE ALLEN, Jr.	:	
	:	
Petitioner,	:	Case No. 3:14-cv-4492 (BRM)
	:	
v.	:	
	:	
STEPHEN D'ILIO, et al.,	:	MEMORANDUM AND ORDER
	:	
Respondents.	:	
	:	

Petitioner, John Lee Allen, Jr. (“Petitioner” or “Allen”), is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. On June 29, 2020, this Court dismissed Petitioner’s habeas petition without prejudice due to untimeliness. (*See* ECF 26 & 27.) Petitioner was given the opportunity though to file a supplemental brief explaining why this Court should construe his habeas petition as timely. On September 15, 2020, this Court denied Petitioner’s application for reconsideration. (*See* ECF 34 & 35.) Petitioner has appealed both the June 29, 2020 opinion and order and the September 15, 2020 opinion and order. (*See* ECF 32 & 36.)

On October 23, 2020, the United States Court of Appeals for the Third Circuit remanded this matter for this Court to determine whether a certificate of appealability should issue. (*See* ECF 39.) Pursuant to 28 U.S.C. § 2253(c), unless a circuit justice or judge issues a certificate of appealability (“COA”), an appeal may not be taken from a final order in a proceeding under 28 U.S.C. § 2254. A certificate of appealability may issue “only if the applicant has made a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). In

Slack v. McDaniel, 529 U.S. 473, 484 (2000), the United States Supreme Court held: “When the district court denies a habeas petition on procedural grounds without reaching the prisoner’s underlying constitutional claim, a COA should issue when the prisoner shows, at least, 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.” *Id.*

Petitioner has not met the standard for a COA for the reasons discussed in this Court’s prior opinions. Therefore, a COA is denied.

Accordingly,

IT IS on this 5th day of November 2020,

ORDERED that a certificate of appealability shall not issue; and it is further

ORDERED the Clerk shall serve this memorandum and order on Petitioner by regular U.S. mail.

/s/Brian R. Martinotti
BRIAN R. MARTINOTTI
UNITED STATES DISTRICT JUDGE