



does, however, argue that his habeas proceeding was deficient because

The SDNY accounted deference to a state court decision that applied a rule in direct contradiction to federal law as it identified by Supreme Court precedent. The United States District Court SDNY failure to conduct the analysis mandated by 2254(d) and its interpretation by the Supreme Court is in itself problematic.

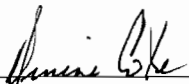
Jackson does not, however, identify which Supreme Court precedent was misapplied in his habeas proceeding. Jackson further alleges that "[t]he district court did not apprehend the facts." Yet Jackson does not indicate which facts the district court did not apprehend in his habeas proceeding.

"[A] Rule 60(b) motion that attacks the integrity of a previous habeas proceeding, but is nevertheless without merit, should simply be denied." Harris v. United States, 367 F.3d 74, 82 (2d Cir. 2004). When faced with a Rule 60(b) motion that attacks a movant's underlying conviction and not the integrity of the federal habeas proceeding, a district court may deny the motion as beyond the scope of Rule 60(b). Alternatively, the court may give the movant an opportunity to withdraw the motion before treating it as a second habeas petition and transferring it to the Court of Appeals as a successive habeas petition. See id. Accordingly, it is hereby

ORDERED that Jackson's October 19, 2009 Rule 60(b) motion  
is denied.

SO ORDERED:

Dated: New York, New York  
November 4, 2009

  
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DENISE COTE  
United States District Judge

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