

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>ELLIOTT EBERHARDT,</b>	:	
<b>Petitioner,</b>	:	
	:	
v.	:	<b>CIVIL ACTION NO. 13-CV-1700</b>
	:	
<b>WARDEN MICHAEL WENEROWITZ,</b>	:	
<i>et al.,</i>	:	
<b>Respondents.</b>	:	

**ORDER**

**AND NOW**, this 14th day of January, 2022, in consideration of Petitioner Elliott Eberhardt’s Motion for Relief from Judgment Under Fed. R. Civ. P. 60(b) (ECF No. 44), it is **ORDERED** that:

1. The Clerk of Court is **DIRECTED** to correct the entry on the docket at ECF No. 44 to identify the Motion as a “Motion for Relief from Judgment Under Fed. R. Civ. P. 60(b).”
2. The Motion is **DISMISSED** for lack of subject matter jurisdiction without prejudice to Eberhardt’s right to file with the United States Court of Appeals for the Third Circuit an application to file a second or successive habeas petition. *See* 28 U.S.C. § 2244(b)(3)(A).
3. A Certificate of Appealability is **DENIED** pursuant to 28 U.S.C. § 2253(c) because reasonable jurists would not debate the propriety of this Court’s procedural ruling with respect to these claims. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

**BY THE COURT:**

/s/ Juan R. Sánchez  
**JUAN R. SÁNCHEZ, C.J.**