IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA ROANOKE DIVISION

| FREDDIE EUGENE CASEY, |) |
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| |) Case No. 7:97CV00466 |
| Petitioner, |) Case No. 7:12CV_00590 |
| ν. |) |
| |) ORDER |
| WARDEN, BUCKINGHAM |) |
| CORRECTIONAL CENTER, |) By: James P. Jones |
| |) United States District Judge |
| Respondent. |) |
| v. WARDEN, BUCKINGHAM CORRECTIONAL CENTER, | Case No. 7:12CV 00590 ORDER By: James P. Jones |

For the reasons stated in the Opinion accompanying this Order, it is **ORDERED** as follows:

1. Petitioner's "Rule 60 Motion" (ECF No. 38), seeking to

reopen this action under 28 U.S.C.A. § 2254, is DENIED;

2. Petitioner's said motion is CONSTRUED as a new petition for a writ of habeas corpus under 28 U.S.C.A. § 2254, and the clerk is DIRECTED to docket the pleading as a new and separate civil action under § 2254;

3. Petitioner's new § 2254 petition is DISMISSED without prejudice under 28 U.S.C.A. § 2244(b) as successive, and is stricken from the active docket of the court; and

4. Because Petitioner has not made the requisite showing of denial of a substantial right, a certificate of appealability is DENIED.

ENTER: November 30, 2012

/s/ James P. Jones United States District Judge