

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

MASON ANTHONY WRIGHT	:	CIVIL ACTION
	:	
v.	:	
	:	
KENNETH KYLER et al.	:	NO. 03-1000

**MEMORANDUM**

**Baylson, J.**

**July 10, 2006**

On June 12, 2006, Petitioner Mason Anthony Wright (“Petitioner”) filed a Motion for Relief from Judgment or Order Pursuant to Federal Rule of Civil Procedure 60(b) (Doc. No. 29).

A brief review of the procedural history of this case is instructive. Petitioner first came before this Court when he filed a petition for habeas corpus under 28 U.S.C. § 2254 on February 24, 2003. The case was subsequently referred to Magistrate Judge Charles Smith (the “Magistrate Judge”), and the respondents filed a response to the petition on June 19, 2003. The Magistrate Judge submitted his Report and Recommendation (“R&R”) on July 30, 2003, concluding that the petition should be denied as untimely. On October 30, 2003, this Court overruled Petitioner’s objections to the R&R, and the habeas petition was denied. A certificate of appealability was not issued. Although Petitioner attempted to appeal the denial to the United States Court of Appeals for the Third Circuit, his request for a certificate of appealability under 28 U.S.C. § 2253(c)(1) was denied on July 1, 2004. A petition for rehearing en banc was denied on August 31, 2004.

Petitioner next filed a motion with this Court entitled “Motion for Relief Under Rule 60(b) Pursuant to Federal Rules of Civil Procedure” on December 22, 2004. This motion was

denied in an Order dated August 9, 2005 (Doc. No. 25). The Court held that Petitioner had a full opportunity to present all grounds for relief in his original petition and both the Magistrate Judge and the undersigned gave full consideration to it but denied the petition. Therefore, the Rule 60(b) motion was denied.

Petitioner then pursued an appeal of the Court's denial of his 60(b) petition, but the Third Circuit denied a request for a certificate of appealability and a petition for rehearing en banc. Finally, on May 22, 2006, a petition for a writ of certiorari was denied by the Supreme Court of the United States. Petitioner's most recent motion under Rule 60(b) followed approximately twenty days later.

The Court finds that the current motion for relief under Rule 60(b) is improper. Petitioner has already availed himself of his full appellate rights, once for the denial of his habeas petition and once for the denial of his first Rule 60(b) motion. Though Petitioner again asserts that he was unable to reasonably present his arguments as to actual innocence during the habeas proceedings, these arguments have already been dismissed in prior orders of this Court. The Court therefore concludes that Petitioner has presented no grounds for relief under F.R. Civ. P. 60(b) and his motion will therefore be denied.

An appropriate Order follows.

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**ORDER**

AND NOW this 10th day of July, 2006, it is hereby ORDERED that Petitioner's second Motion for Relief from Judgment or Order Pursuant to Federal Rule of Civil Procedure 60(b) (Doc. No. 29) is DENIED.

**BY THE COURT:**

s/ Michael M. Baylson  
**MICHAEL M. BAYLSON, U.S.D.J.**