

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

UNITED STATES OF AMERICA,

Plaintiff,

v.

**Criminal Action No. 3:97-CR-17-02
(BAILEY)**

**JASON J. SMITH, aka Phillip
Daniel Smith,**

Defendant.

ORDER DENYING *PRO SE* MOTION

On this day, the above-styled criminal action came before this Court upon consideration of the defendant's *pro se* Notice and Demand to Vacate Void Judgment for Lack of Jurisdiction and for Injunctive Relief from Criminal Fraud F.R.C.P. Rule 60(b)(4) [Doc. 395], which was filed on February 11, 2013. In his motion, the defendant asserts that this Court lacked jurisdiction over his criminal action in which he was convicted by a jury to a one (1) count Indictment nearly fifteen (15) years ago [Doc. 238].

The defendant's theory as to why this Court lacked jurisdiction over his criminal action is "that this court usurped its authority by adjudicating this cause of action in a territorial court and applying territorial 'Acts of Congress' against a Citizen and inhabitant of the Sovereign Republic of West Virginia state. (State zone Citizen)." [Doc. 395 at p. 3].

This Court has reviewed the defendant's Motion and the law in support thereof and finds it is completely without merit. Accordingly, the defendant's *pro se* Notice and Demand to Vacate Void Judgment for Lack of Jurisdiction and for Injunctive Relief from Criminal

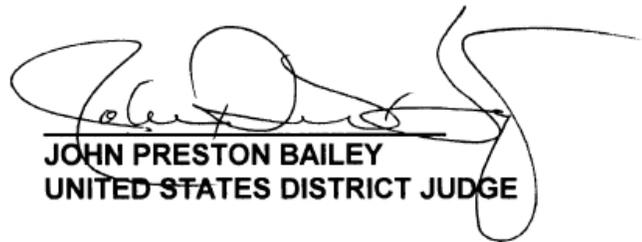
Fraud F.R.C.P. Rule 60(b)(4) [Doc. 395] is hereby **DENIED**.

Finally, upon an independent review of the record, this Court hereby **DENIES** a certificate of appealability, finding that the petitioner has failed to make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2).

It is so **ORDERED**.

The Clerk is hereby directed to transmit copies of this Order to all counsel of record herein and to mail a certified copy to the *pro se* defendant.

DATED: February 19, 2013.



JOHN PRESTON BAILEY
UNITED STATES DISTRICT JUDGE