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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Thomas Stewart, Jr.,

10 Petitioner,

11 v.

12 Charles L Ryan, et al.,

13 Respondents.
14

No. CV-12-01688-PHX-JAT

ORDER

15 In August 2012, Petitioner filed a Petition for Writ of Habeas Corpus challenging
16 his 2004 state court conviction. In April 2014, this Court denied the Petition and entered
17 judgment accordingly. (Docs. 40 and 41). Petitioner appealed and the Ninth Circuit
18 Court of Appeals denied a certificate of appealability in August 2014.

19 In March 2017, Petitioner filed two motions and a supplement. (Docs. 46, 47, and
20 48). One motion seeks relief under Federal Rule of Civil Procedure 60, claiming fraud
21 on the court. This motion is 32 pages (157 with attachments) and is accompanied by a 48
22 page supplement. In summary, it appears to argue that the state court record as filed by
23 Respondents is either incomplete or inaccurate. Petitioner appears to argue that
24 something he filed on February 25, 2011 was treated incorrectly by the state court clerk.
25 (Doc. 47 at 9). The Court believes the document to which Petitioner refers is found in
26 this Court's record at Doc. 16-4 at 2. Petitioner argues this issue is "newly discovered."
27 (Doc. 47 at 2).

28 First, because Respondent filed this exhibit on December 28, 2012, the Court

1 rejects Petitioner’s argument that it is “newly discovered.” Second, because this
2 document was in this Court’s record at the time this Court rendered its April 2014
3 decision, Respondents did not commit fraud on the Court. Finally, Petitioner seems to
4 argue that the Arizona superior court somehow harmed him. (Doc. 47 at 10). Any claim
5 Petitioner may have against the superior court is not properly before this Court as part of
6 a Petition for Writ of Habeas Corpus. Therefore, Petitioner’s motion to reopen (Doc. 47)
7 will be denied.

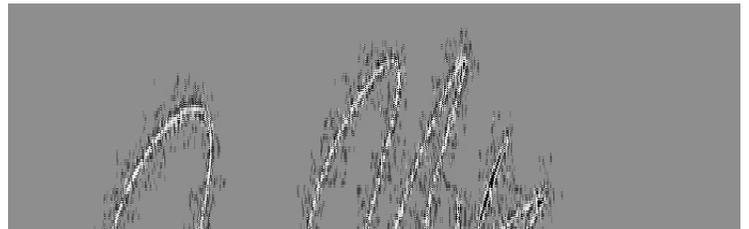
8 Petitioner also seeks discovery from Respondents. (Doc. 46). Because this case is
9 closed, and will not be reopened, the Court will not order any discovery between the
10 parties.

11 Based on the foregoing,

12 **IT IS ORDERED** that the Motion to Reopen (Doc. 47) is denied.¹

13 **IT IS FURTHER ORDERED** that the Motion for Order for Prison Logs of In-
14 Coming Mail (Doc. 46) is denied.

15 Dated this 23rd day of May, 2017.

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26 ¹ To the extent a ruling on a certificate of appealability (COA) is required on the
27 motion to reopen, a COA is denied. *See Lynch v. Blodgett*, 999 F.2d 401, 402-03 (9th
28 Cir. 1993) (holding that a Certificate of Probable Cause, the predecessor to the COA
under the prior version of § 2253, was required to appeal the denial of a Rule 60(b)
motion in a § 2254 habeas corpus proceeding.)