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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

Karl John Cascketta,

Movant,

v.

USA,

Respondent.

No. CV-16-02042-PHX-JAT (JZB)
CR-09-678-PHX-JAT-2

ORDER

Pending before the Court is Movant's motion for reconsideration (Doc. 21) ("Motion") which he filed pro se despite being represented by counsel. The Motion is denied because it is procedurally improper; because Movant has counsel he cannot simultaneously represent himself pro se. Alternatively, the Motion is denied on the merits for the reasons stated in this Court's Order of October 19, 2018 (Doc. 19) and the Report and Recommendation (Doc. 16).[1]

To the extent the Motion could be construed as being filed under Federal Rule of Civil Procedure 59(e) or 60(b), a certificate of appealability on the Motion will also be denied for the reasons stated in the Order at Doc. 19. *See United States v. Winkles*, 795 F.3d 1134, 1142 (9th Cir. 2015) (certificate of appealability is required to appeal the denial of a Rule 60(b) motion arising out of the denial of a section 2255 motion); *Johnson v. Montgomery*, No. LA CV 13-07189-VBF, 2014 WL 7338824, at *6 (C.D. Cal. Dec. 15,

[1] Movant's intention to argue on appeal that controlling Ninth Circuit precedent was wrongly decided (Doc. 21 at 3-4) does not change this Court's reason for denying a certificate of appealability.

2014) ("*United States v. Parada*, 555 F. App'x 763, 765 (10th Cir.2014) (holding that AEDPA 'requires a petitioner to obtain a COA before he can appeal the denial of any final order in a habeas corpus proceeding, *including a motion for reconsideration under Rule 59(e)*') (emphasis added) (citing *United States v. Cobb*, 307 F. App'x 143, 144–45 (10th Cir.2009) and 28 U.S.C. § 2253(c)(1)(B))).

IT IS ORDERED that the motion for reconsideration (Doc. 21) is denied; a certificate of appealability is also denied as to the motion for reconsideration.

Dated this 18th day of December, 2018.