

1 NOT FOR PUBLICATION  
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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 William Edward Kangas,  
10 Petitioner,

11 v.

12 Charles L Ryan, *et al.*,  
13 Respondents.  
14

No. CV-16-03364-PHX-JJT (JZB)

**ORDER**

15 On November 14, 2017, the Court entered an Order (Doc. 26) denying and  
16 dismissing with prejudice the Amended Petition for Writ of Habeas Corpus under 28  
17 U.S.C. § 2254. (Doc. 25.) The Court entered its rulings after considering an exhaustive  
18 Report and Recommendation (“R&R”) (Doc. 22) submitted by United States Magistrate  
19 Judge John Z. Boyle which thoroughly analyzed each of Petitioner’s asserted grounds for  
20 relief. After the Court entered judgment, Petitioner appealed to the Ninth Circuit, which  
21 denied his request for a certificate of appealability because Petitioner failed to make the  
22 required showing. (Doc. 30.)

23 Petitioner then filed the instant Motion for Relief from Judgment pursuant to Fed.  
24 R. Civ. P. 60(b). (Doc. 31). Judge Boyle has again submitted a thorough R&R analyzing  
25 the Motion and its basis and recommending the Court deny the Motion. (Doc. 33.)  
26 Petitioner timely filed Objections to the new R&R. (Doc. 36.) On consideration of all the  
27 above filings, the Court will adopt the R&R and deny the Motion for Relief. (Doc. 30.)

28 Judge Boyle set out the clear operative law of this Circuit holding that where a Rule

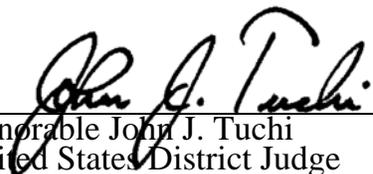
1 60(b) motion presents “an asserted federal basis for relief from a...judgment of  
2 conviction...then it is in substance a new request for relief on the merits and should be  
3 treated as a disguised [successive habeas] motion. *United States v. Washington*, 653 F.3d  
4 1057, 1063 (9th Cir. 2011)(internal quotes omitted). Upon independent review, the Court  
5 concludes Judge Boyle correctly identified the Rule 60(b) Motion as precisely what is  
6 prohibited by *Washington*. Petitioner makes no argument for a defect in the earlier habeas  
7 proceeding before the Court; his only argument is a claim of actual innocence not approved  
8 by the Ninth Circuit Court of Appeals, raising no new evidence, and which was raised,  
9 considered and rejected at trial, and by the Arizona Court of Appeals. Rule 60(b) motions  
10 are not permitted to give petitioners second bites at the apple. The Motion must be  
11 dismissed, as Judge Boyle concluded.

12 IT IS ORDERED adopting in whole the R&R prepared by Judge Boyle in this  
13 matter (Doc. 33).

14 IT IS FURTHER ORDERED denying Motion for Relief from Judgment pursuant  
15 to Fed. R. Civ. P. 60(b). (Doc. 31).

16 IT IS FURTHER ORDERED denying a Certificate of Appealability and leave to  
17 proceed *in forma pauperis* on appeal because reasonable jurists would not find the ruling  
18 debatable. The matter shall remain closed.

19 Dated this 12th day of December, 2018.

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23 Honorable John J. Tuchi  
24 United States District Judge  
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