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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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10 United States of America,

11 Plaintiff,

12 vs.

13 Ivan Ray Begay,

14 Defendant/Movant.  
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No. CV-10-08221-PCT-PGR  
No. CR-00-01222-PCT-PGR

ORDER

16 Having considered the defendant's Motion to Reopen Habeas Corpus  
17 Pursuant to Fed.R. of Civ.P. Rule 60(B)(1-6), filed June 27, 2016, the Court finds  
18 that it should be summarily denied. The issues raised in the motion, such as the  
19 petitioner's intoxication-based actual innocence claim, have all been rejected by the  
20 Court in previous rulings. See e.g., Order (Doc. 40 in CV-10-08221) ("These new  
21 contentions regarding his intoxication, the factual predicates for which existed and  
22 were ripe when Begay's first § 2255 petition was filed, are in substance a new claim  
23 of error regarding his underlying conviction which is properly treated as a disguised  
24 § 2255 motion. United States v. Washington, 653 F.3d 1057, 1063 (9<sup>th</sup> Cir.2011).  
25 Because this motion constitutes a second or successive § 2255 petition, the Court  
26 has no jurisdiction to consider it due to Begay's failure to first obtain the required

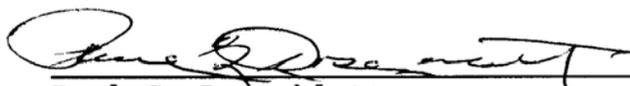
1 certification from the Ninth Circuit Court of Appeals. *Id.* at 1065; 28 U.S.C. §  
2 2255(h).”)

3 As both this Court and the Ninth Circuit Court of Appeals have repeatedly  
4 ruled, the petitioner’s § 2255 habeas action has been terminated and cannot be  
5 reopened. The defendant simply has no viable claim of actual innocence, and no  
6 viable claim of any alleged procedural irregularity related to his guilty plea that can  
7 now be litigated any further. Therefore,

8 IT IS ORDERED that the defendant’s Motion to Reopen Habeas Corpus  
9 Pursuant to Fed.R. of Civ.P. Rule 60(B)(1-6) (Doc. 43 in CV-10-08221) is denied.

10 IT IS FURTHER ORDERED that no certificate of appealability shall issue and  
11 that the defendant is not entitled to appeal *in forma pauperis* because he has failed  
12 to show that reasonable jurists would find this Court’s assessment of the  
13 constitutional claims debatable or wrong, or that reasonable jurists would find it  
14 debatable whether he has stated a valid claim of the denial of a constitutional right  
15 or debatable whether the Court was correct in its procedural ruling.

16 DATED this 7<sup>th</sup> day of July, 2016.

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19 Paul G. Rosenblatt  
20 United States District Judge  
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