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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Ivan Ray Begay,

10 Petitioner,

11 v.

12 United States of America,

13 Respondent.
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No. CV-10-08221-PCT-JAT
CR-00-1222-PCT-PGR
ORDER

15 Pending before the Court is Petitioner's motion for relief from judgment pursuant
16 to Federal Rule of Civil Procedure 60(b)(6). (Doc. 48). Petitioner's motion has two
17 parts.

18 The first part seeks the recusal of Judge Rosenblatt. Because this case has now
19 been reassigned to the undersigned, the Court finds that portion of the motion to be moot.

20 The second part seeks to have Petitioner's conviction set aside for various reasons.
21 This case was originally filed as a motion to vacate, set aside or correct sentence. (Doc.
22 1). Relief was denied March 7, 2011. (Doc. 8). A certificate of appealability was denied
23 at the district court level (Doc. 8), and denied by the Court of Appeals (Doc. 22). By this
24 Court's count, Petitioner has moved to reconsider the decision in this case on 12 prior
25 occasions. (Docs. 13, 14, 15, 25, 26, 28, 29, 32, 35, 36, 39, and 43). Petitioner also
26 sought leave to file a successive petition, which the Court of Appeals denied. (Doc. 20).

27 In this thirteenth motion, Petitioner again raises factual contentions that existed
28 and were ripe at the time Petitioner filed his original motion. Thus, while this motion is

1 called a Rule 60(b)(6) motion, it is really a successive § 2255 petition. As noted above,
2 the Court of Appeals has already denied Petitioner's request to file a successive petition.

3 Further, even if the Court were to treat the motion as one under Federal Rule of
4 Civil Procedure 60(b)(6), "Rule 60(b)(6) should be 'used sparingly as an equitable
5 remedy to prevent manifest injustice'" and should be used only in "extraordinary
6 circumstances to prevent or correct an erroneous judgment." *In re Int'l Fibercom, Inc.*,
7 503 F.3d 933, 941 (9th Cir. 2007) (citing *United States v. Washington*, 394 F.3d 1152,
8 1157 (9th Cir. 2005)). Here, nothing in Petitioner's motion shows that the judgment was
9 erroneous or incorrect.

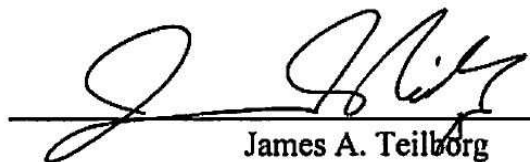
10 Therefore,

11 **IT IS ORDERED** that Petitioner's motion for reconsideration (Doc. 48) is denied.

12 **IT IS FURTHER ORDERED** that a certificate of appealability is denied. *See*
13 *generally Lynch v. Blodgett*, 999 F.2d 401 (9th Cir. 1993) (requiring a certificate of
14 appealability on a Rule 60 motion).

15 Dated this 17th day of January, 2018.

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James A. Teilborg
Senior United States District Judge