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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JASON BEST,
Petitioner,
v.
A. MATEVOUSIAN,
Respondent.

No. 1:17-cv-01087-DAD-SKO

ORDER DENYING MOTION FOR
RECONSIDERATION

(Doc. No. 15)

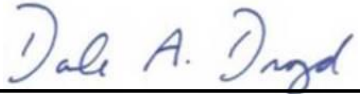
On December 26, 2017, this court issued an order adopting the findings and recommendations of the assigned magistrate judge and dismissing this federal habeas action as a second or successive petition under 28 U.S.C. § 2255. (Doc. No. 13.) On January 11, 2018, petitioner filed a motion for reconsideration, asserting that the court had failed to consider his actual innocence argument. (Doc. No. 15.)

Petitioner’s motion for reconsideration is not well taken. This court previously considered petitioner’s argument that he was asserting an actual innocence claim but found that—regardless of its merit—petitioner had “an unobstructed procedural shot” at presenting his claims. (*See* Doc. No. 13 at 2) (quoting *Stephens v. Herrera*, 464 F.3d 895, 898 (9th Cir. 2006)). Therefore, regardless of petitioner’s professed innocence, this petition is a second or successive petition under 28 U.S.C. § 2255. This court cannot entertain a second or successive petition unless the petitioner has received prior approval from the Ninth Circuit Court of Appeals. *See* 28 U.S.C.

1 § 2244(b)(3); *United States v. Allen*, 157 F.3d 661, 664 (9th Cir. 1998) (holding district court
2 lacks jurisdiction to consider successive § 2255 petition without prior certification from the court
3 of appeals). Accordingly, the motion for reconsideration (Doc. No. 15) is denied.

4 IT IS SO ORDERED.

5 Dated: February 2, 2018

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UNITED STATES DISTRICT JUDGE