UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN BRAUNSTEIN,

Petitioner,

vs.

BRIAN WILLIAMS, et al.,

Respondent.

2:16-cv-02556-APG-NJK

ORDER

This is a habeas corpus proceeding under 28 U.S.C. § 2254. Pending before the court is petitioner's motion for reconsideration. ECF No. 12. On November 10, 2016, this court dismissed this proceeding for lack of jurisdiction because petitioner had not obtained authorization from the court of appeals before proceeding with a second or successive petition. *See* 28 U.S.C. § 2244(b)(3). On February 24, 2017, petitioner filed a motion asking the court to reconsider that decision pursuant to Fed. R. Civ. P. 60(b)(6) (ECF No. 5), which this court denied on April 20, 1017 (ECF No. 10). On the same day (*i.e.*, April 20, 1017), the Ninth Circuit Court of Appeals issued an order denying petitioner a certificate of appealability. ECF No. 11. Obviously unaware of the entry of this court's order denying reconsideration, the Ninth Circuit's order noted that: "Appellant's February 24, 2017, motion for reconsideration remains pending in the district court." *Id*.

Petitioner's current motion for reconsideration appears to be premised on that minor discrepancy. In denying petitioner's previous motion for reconsideration, this court, having not

received the Ninth Circuit's order, indicated that petitioner's pending appeal deprived this court of jurisdiction to rule upon a motion seeking relief from its judgment. ECF No. 10, p. 1. The court further noted that, even if it had jurisdiction to rule upon petitioner's Rule 60(b) motion, it would deny it and that the motion did not raise a substantial issue for the purposes of Fed. R. Civ. P. 62.1(a)(3). *Id.*, p. 2.

Setting aside any jurisdictional concerns, petitioner's current motion for reconsideration, like his prior motion, is devoid of any grounds upon which this court might grant relief under Rule 60(b). In particular, it fails to address why his application for habeas relief is not subject to the limitations imposed on successive petitions under 28 U.S.C. § 2244(b).

IT IS THEREFORE ORDERED that petitioner's motion for reconsideration (ECF No. 12) is DENIED.

IT IS FURTHER ORDERED that petitioner is denied a certificate of appealability with respect to this order

Dated: August 16, 2017.

UNITED STATES DISTRICT JUDGE