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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

UNITED STATES OF AMERICA, <p style="text-align: center;">Plaintiff(s),</p> <p style="text-align: center;">v.</p> JUDEL ESPINOZA-GONZALEZ, <p style="text-align: center;">Defendant(s).</p>
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Case No. 2:12-CR-217 JCM (GWF)

ORDER

Presently before the court is petitioner Judel Espinoza-Gonzalez’s renewal of his motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. (ECF No. 95)

This court denied petitioner’s initial motion under § 2255 on April 6, 2017. (ECF No. 90). The Ninth Circuit affirmed that denial in a memorandum disposition and the order on mandate was entered on May 25, 2022. (ECF Nos. 99; 102). During the pendency of that appeal, petitioner filed the instant renewal of his motion “to preserve the filing date” of his original motion in light of the Supreme Court’s decision in *United States v. Davis*, 139 S.Ct. 2319 (2019) and the Ninth Circuit’s decision in *United States v. Blackstone*, 903 F.3d 1020, 1028 (9th Cir. 2018).

In affirming this court’s denial of the original motion, the Ninth Circuit held that “the collateral attack waiver [in the plea agreement] forecloses § 2255 relief.” (ECF No. 99 at 2). Therefore, petitioner’s renewed motion regarding timeliness is moot.


Accordingly,

IT IS HEREBY ORDERED, ADJUDGED, and DECREED that petitioner’s renewed motion pursuant to 28 U.S.C. § 2255 to vacate, set aside, or correct sentence (ECF No. 95) be, and the same hereby is, DENIED.

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The clerk is directed to enter separate civil judgment denying petitioner's § 2255 motion in the matter of *Espinoza-Gonzalez v. United States*, case number 2:20-cv-01193-JCM, and close that case.

DATED February 22, 2023.


UNITED STATES DISTRICT JUDGE