

CLERK'S OFFICE U.S. DIST. COURT
 AT ROANOKE, VA
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**IN THE UNITED STATES DISTRICT COURT
 FOR THE WESTERN DISTRICT OF VIRGINIA
 ROANOKE DIVISION**

ALFRED LEE DAY,
 Petitioner,

v.

UNITED STATES OF AMERICA,
 Respondent.

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Civil Action No. 7:06-cv-00032

FINAL ORDER

By: **Hon. James C. Turk**
 Senior United States District Judge

In accordance with the accompanying memorandum opinion, it is hereby

ADJUDGED AND ORDERED

that petitioner's motion, styled as a motion for relief from judgment under Rule 60(b) is hereby **CONSTRUED** as a motion to vacate, set aside or correct sentence, pursuant to 28 U.S.C. § 2255, and is **DISMISSED** as successive; and this action is hereby stricken from the active docket of the court.

The Clerk is directed to send certified copies of this order and the accompanying memorandum opinion to petitioner and to counsel of record for the respondent.

ENTER: This 17th day of January, 2006.

[Signature]
 Senior United States District Judge