

1
2
3
4
5
6
7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 MARK F SPANGLER,

11 Petitioner,

12 v.

13 UNITED STATES OF AMERICA,

14 Respondent.

CASE NO. C16-1923RSM

ORDER STRIKING PETITIONER'S
MOTION FOR CERTIFICATE OF
APPEALABILITY

15 This matter comes before the Court on Petitioner Mark Spangler's Motion for
16 Certificate of Appealability. Dkt. #20. It appears Mr. Spangler filed this Motion with the
17 Ninth Circuit, which then forwarded it to this Court without comment. The Ninth Circuit did
18 not file Mr. Spangler's Motion on its docket or direct this Court to take any action.

19 This Motion is not properly before the Court. Mr. Spangler did not file this Motion here
20 and is not seeking relief from this Court. Accordingly, this Motion will be stricken.

21 Even if the Court were to consider this Motion, or if Mr. Spangler were to simply refile
22 it in this Court, the Court would deny it. The Court denied Mr. Spangler a Certificate of
23 Appealability ("COA") back in 2017. Dkt. #10 at 6-7. Mr. Spangler appealed. The Ninth
24

1 Circuit denied a COA on January 31, 2018. Dkt. #13. There has been no further action in that
2 appeal.

3 Over a year later Mr. Spangler filed a Rule 60(b) Motion in this Court. The Motion was
4 denied as untimely. In an abundance of caution, the Court addressed the merits of the filing,
5 determining that relief was not warranted. The Court will not deviate from its prior findings
6 and the findings of the Ninth Circuit by issuing a COA now.

7 Having considered Petitioner's Motion and the remainder of the record, the Court
8 hereby finds and ORDERS that Petitioner Spangler's Motion for Certificate of Appealability,
9 Dkt. #20, is STRICKEN as procedurally improper. The Clerk of the Court is directed to
10 forward a copy of this Order to Petitioner and all counsel of record.

11
12 DATED this 2nd day of August, 2019.

13
14 

15 RICARDO S. MARTINEZ
16 CHIEF UNITED STATES DISTRICT JUDGE
17
18
19
20
21
22
23
24