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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 JONATHAN BOOTHE,

10 Plaintiff,

11 v.

12 UNITED STATES OF AMERICA,

13 Defendant.
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Case No. C18-331RSL

ORDER DENYING
APPLICATION FOR
CERTIFICATE OF
APPEALABILITY

15 This matter comes before the Court on petitioner Jonathan Boothe's "Application for
16 Issuance of a Certificate of Appealability." Dkt. # 16. On August 3, 2018, the Court denied
17 petitioner's motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. Dkt.
18 # 11. In that order, the Court concluded that under 28 U.S.C. § 2253, a certificate of
19 appealability (COA) should not issue. *Id.* at 11. On August 20, 2018, petitioner filed a notice of
20 appeal with the Ninth Circuit Court of Appeals, which stated: "This is intended to be a Notice
21 that I plan to appeal the judgement entered in the above referrenced [sic] case, to the Ninth
22 Circuit Court of Appeals for a Certificate of Appealability." Dkt. # 14. Petitioner then filed this
23 request seeking a COA from this Court. Dkt. # 16.

24 As noted, the Court has already concluded that a COA is not warranted. *See* Dkt. # 11 at
25 11. The Court finds no reason to revisit that conclusion,¹ and denies petitioner's request because

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27 ¹ Although a COA request is probably an exception to the presumption that "filing of a
28 notice of appeal . . . divests the district court of control over those aspects of the case involved in the
appeal," *Marrese v. Am. Acad. of Orthopaedic Surgeons*, 470 U.S. 373, 379 (1985), the Court may lack

1 he failed to “ma[ke] a substantial showing of the denial of a constitutional right.” 28 U.S.C
2 § 2253(b)(2). Petitioner is encouraged to submit his COA request to the Ninth Circuit as part of
3 his appeal, as the Court of Appeals is empowered to grant him a COA if it is convinced he has
4 made the requisite showing. See id. § 2253(c)(1).

5 For the foregoing reasons, petitioner’s application, Dkt. # 16, is DENIED.

6 DATED this 4th day of September, 2018.

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9 Robert S. Lasnik
10 United States District Judge
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28 jurisdiction to decide this particular COA request because petitioner has also requested one from the
Ninth Circuit, which would make it an “aspect[] of the case involved in the appeal,” id. Either way, the
Court concludes that a COA should not issue.