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2 In The
3
4 Supreme Court of the United States.
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6

7 NO. - - -
8 George Bridgette
9 Petitioner
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12 Donald R. Hill, warden
13 Attorney General Xavier Becerra
14 Respondent
15
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17 Petition for a writ of Certiorari to the
18 United States Court of Appeals
19 for the Ninth Circuit
20
21

22 Petition for writ of Certiorari
23 Appendix
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27
28

2
3 Appendix

4 A Federal Courts Judgement

5 Appendix B. Decision of federal district Court

6 Appendix C. Decision of United States Court of Appeal.

7
8 1. notice of Referral of matter to the magistrate Judge Rozella A. Oliver

9
10 2. order denying Petitioner's motion for relief from judgement. Judge
11 William D. Keller

12
13 3. order denying Certificate of Appealability. Judge William D. Keller

14
15 4. order denying Petitioner request for a Certificate of Appealability
16 United States Court of Appeals, Circuit Judges Nguyen, and Owens.

17
18 5. Petitioner Challenge the defect in the integrity of the federal habeas corpus
19 Proceedings which resulted in violation of Petitioner federal Constitutional right,
20 Right to Procedural due Process of law, And to have the assistance of counsel
21 for his defense at every stage of the habeas corpus Proceedings. under the fifth
22 and Six Amendment.

23
24 6. under federal Rule 60(b)(6) No specific time limitation for filing a federal
25 Rule 60(b)(6) motion in federal Court.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

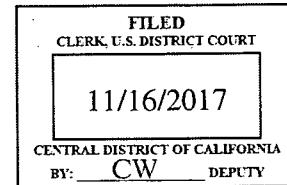
GEORGE BRIDGETTE, v. DONALD R. HILL, ET AL.,	CASE NUMBER CV 95-4413-WDK (RAOx)
PLAINTIFF DEFENDANTS.	NOTICE OF REFERRAL OF MATTER TO THE MAGISTRATE JUDGE

Pursuant to the directive of Senior Judge William D. Keller, the **Motion for Relief from Judgment Pursuant to Rule 60(b)(1)(2)(3)(6)** filed by Plaintiff George Bridgette [153] filed on October 4, 2017 is hereby referred to Magistrate Judge Rozella A. Oliver for a Report and Recommendation.

CLERK, U.S. DISTRICT COURT

DATED: October 30, 2017

By Cheryl Wynn
Cheryl Wynn, Courtroom Deputy



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GEORGE BRIDGETTE,

Petitioner,

v.

DONALD R. HILL, et al.,

Respondent.

Case No. CV 95-04413-WDK (RAO)

ORDER DENYING PETITIONER'S
MOTION FOR RELIEF FROM
JUDGMENT

On September 28, 2017, Petitioner George Bridgette ("Petitioner"), a California state prisoner proceeding *pro se*, constructively filed a "Motion for Relief from Judgement, Pursuant to Rule 60(b)(1)(2)(3)(6)" ("Motion"). (Mot., Dkt. No. 153.) For the following reasons, the Court denies Petitioner's Motion.

I. BACKGROUND

On July 3, 1995, Petitioner filed a Petition for Writ of Habeas Corpus by a Person in State Custody, alleging juror misconduct at his criminal trial. (Dkt. No. 1; *see* Dkt. No. 138.) After a magistrate judge conducted an evidentiary hearing, the Court denied habeas relief on June 10, 1999. (Dkt. No. 138.) Petitioner appealed, and the Ninth Circuit affirmed on March 28, 2001. (Dkt. Nos. 139, 151 at 2-4.) *See Bridgette v. Hill*, 8 F. App'x 608 (9th Cir. 2001) (mem.).

In the instant Motion, Petitioner seeks an order setting aside and vacating the

1 Court's 1999 order denying habeas relief. (Mot. at 1.)¹ Petitioner asserts that his
2 Fifth and Sixth Amendment rights were violated during the prior habeas
3 proceedings. (*Id.* at 1-2.) Specifically, Petitioner alleges that he was "left
4 unrepresented and defenseless" when his counsel was removed from the evidentiary
5 hearing. (*Id.* at 1; *see id.* at 7.) Petitioner asserts that the Court erred in failing to
6 appoint substitute counsel, thereby violating his Sixth Amendment right to defense
7 counsel and rendering him unable to timely file an objection to the Report and
8 Recommendation. (*Id.* at 1-2, 7.)

9 **II. DISCUSSION**

10 Federal Rule of Civil Procedure 60(b) provides:

11 On motion and just terms, the court may relieve a party
12 or its legal representative from a final judgment, order, or
13 proceeding for the following reasons: (1) mistake,
14 inadvertence, surprise, or excusable neglect; (2) newly
15 discovered evidence that, with reasonable diligence,
16 could not have been discovered in time to move for a
17 new trial under Rule 59(b); (3) fraud (whether previously
18 called intrinsic or extrinsic), misrepresentation, or
19 misconduct by an opposing party; (4) the judgment is
void; (5) the judgment has been satisfied, released or
discharged; it is based on an earlier judgment that has
been reversed or vacated; or applying it prospectively is
no longer equitable; or (6) any other reason that justifies
relief.

20 To the extent that Petitioner seeks relief under Rule 60(b)(1)-(3), his Motion
21 is untimely pursuant to the Rule's express language. *See Fed. R. Civ. P. 60(c)(1)* (a
22 motion under Rule 60(b)(1), (2), or (3) must be made "no more than a year after the
23 entry of the judgment or order or the date of the proceeding"); *see also Nevitt v.*
24 *United States*, 886 F.2d 1187, 1188 (9th Cir. 1989) (expressly holding that
25 "pendency of an appeal does not toll the one year period").

27 ¹ Petitioner's Motion is not consecutively paginated. For ease of reference, the
28 Court uses the page numbers automatically generated by the Court's electronic
filing system.

1 A Rule 60(b)(6) motion “must be made within a reasonable time.” Fed. R.
2 Civ. P. 60(c)(1). Petitioner filed this Motion more than eighteen years after the
3 Court initially denied habeas relief. (See Dkt. No. 138.) Such a lengthy delay is
4 unreasonable, and Petitioner’s Motion must be dismissed as untimely. Cf. *Adams v.*
5 *Hedgpeth*, No. LA CV 11-04330-VBF-FFM, 2014 WL 1795167, at *2 (C.D. Cal.
6 Apr. 9, 2014) (stating that some “Ninth Circuit panels have found delays of a year
7 or less to be unreasonable absent some legally valid justification” and that
8 “[d]istrict courts have found a delay of even 14 or 15 months before seeking relief
9 from a judgment dismissing a habeas petition was unreasonable”);
10 *Rodriguez-Villareal v. United States*, Nos. 06-CV-0223 H, 99-CR-1515 H, 2007
11 WL 2410058, at *3 (S.D. Cal. Aug. 17, 2007) (finding a fourteen-month delay
12 unreasonable under the circumstances of the case).

13 Petitioner asserts that his “substantial delay in time in exercising due
14 diligence” is due to his advanced age and “traumatic brain injury due to PTSD
15 symptoms.” (Mot. at 8.) However, Petitioner, represented by counsel, appealed the
16 Court’s denial of habeas relief to the Ninth Circuit in July 1999, and Petitioner
17 appears to have been represented by counsel for over one year thereafter. (See Dkt.
18 Nos. 139, 149, 151 at 5.) Petitioner presents no justification for his failure to file a
19 Rule 60(b) motion during that time period. Additionally, following the Ninth
20 Circuit’s affirmance of this Court’s decision, Petitioner continued to seek relief in
21 state court, filing numerous other petitions *pro se*.² See *Bridgette v. The People*
22 (Case No. B172063, filed Dec. 24, 2003) (habeas corpus); *Bridgette v. The People*
23

24 ² The Court takes judicial notice of the records of the California Court of
25 Appeal, which are available online at <http://appellatecases.courtinfo.ca.gov>. See
26 Fed. R. Evid. 201(b)(2) (providing that a court may take judicial notice of
27 adjudicative facts that “can be accurately and readily determined from sources
28 whose accuracy cannot reasonably be questioned”); *Harris v. Cty. of Orange*, 682
F.3d 1126, 1131-32 (9th Cir. 2012) (noting that a court may take judicial notice of
federal and state court records).

1 *et al.* (Case No. B204757, filed Jan. 7, 2008) (habeas corpus); *In re George*
2 *Bridgette on Habeas Corpus* (Case No. B227043, filed Sept. 1, 2010) (habeas
3 corpus); *In re George Bridgette on Habeas Corpus* (Case No. B254243, filed Feb.
4 10, 2014) (habeas corpus); *In re George Bridgette on Habeas Corpus* (Case No.
5 B258548, filed Sept. 2, 2014) (habeas corpus); *Bridgette v. S.C.L.A.* (Case No.
6 B262037, filed Feb. 19, 2015) (writ of mandate); *The People v. Bridgette* (Case No.
7 B263108, filed Apr. 3, 2015) (writ of error coram vobis); *The People v. Bridgette*
8 (Case No. B264539, filed June 5, 2015) (writ of error coram vobis); *The People v.*
9 *Bridgette* (Case No. B268434, filed Nov. 16, 2015) (writ of error coram vobis).
10 Therefore, Petitioner has not presented any legal justification to overcome the
11 untimeliness of the instant Motion.

12 **III. ORDER**

13 IT IS THEREFORE ORDERED THAT the Petitioner's Motion for Relief
14 From Judgement is DENIED.

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17 DATED: 11/16/2017

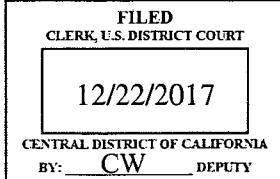
William D. Keller

18 WILLIAM D. KELLER
19 UNITED STATES DISTRICT JUDGE

20
21 Presented by:

22 *Rozella A. Oliver*

23
24 ROZELLA A. OLIVER
25 UNITED STATES MAGISTRATE JUDGE



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

GEORGE BRIDGETTE,
Petitioner,
v.
DONALD R. HILL, et al.,
Respondent.

Case No. CV 95-04413 WDK (RAO)

ORDER DENYING CERTIFICATE
OF APPEALABILITY

I. INTRODUCTION

On July 3, 1995, Petitioner George Bridgette (“Petitioner”) filed a petition for writ of habeas corpus by a person in state custody. (See Dkt. No. 1.) After a magistrate judge conducted an evidentiary hearing, the Court denied habeas relief on June 10, 1999. (Dkt. No. 138.) Petitioner appealed, and the Ninth Circuit affirmed on March 28, 2001. (Dkt. Nos. 139, 151 at 2-4.) *See Bridgette v. Hill*, 8 F. App’x 608 (9th Cir. 2001) (mem.).

Eighteen years after judgment was entered in this action, Petitioner filed a motion for relief under Rule 60 of the Federal Rules of Civil Procedure. (Dkt. No. 153.) The Court reviewed the motion, and on November 16, 2017, the Court denied the motion for being untimely. (Dkt. No. 157.)

///

On November 24, 2017, Petitioner constructively filed a notice of appeal—indicating his intent to appeal the Court’s November 16, 2017 order—and a request for a Certificate of Appealability (“COA”). (Dkt. No. 159.) On the same date, Petitioner also constructively filed an objection to the November 16, 2017 order, reiterating the arguments from Petitioner’s Rule 60 motion. (Dkt. No. 158.)

II. DISCUSSION

Under the Antiterrorism and Effective Death Penalty Act (“AEDPA”), a state prisoner seeking to appeal a final order in a habeas corpus proceeding must obtain a COA from the district judge or a circuit judge. *See 28 U.S.C. § 2253.* Similarly, a COA is required for a prisoner to appeal the denial of a Rule 60(b) motion for relief from a judgment arising out of the denial of a habeas petition. *See United States v. Winkles*, 795 F.3d 1134, 1142 (9th Cir. 2015). The Ninth Circuit has held that:

a COA should issue for the appeal arising from the denial of a Rule 60(b) motion in a section 2255 proceeding if the movant shows that (1) jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60(b) motion and (2) jurists of reason would find it debatable whether the underlying section 2255 motion states a valid claim of the denial of a constitutional right.

Id. at 1143. Although *Winkles* dealt with a § 2255 proceeding (involving persons in federal custody), it applies to Rule 60(b) motions in § 2254 proceedings (involving persons in state custody) as well. *See De Adams v. Hedgpeth*, 2016 WL 4035607, at *14 (C.D. Cal. June 8, 2016); *Ceja v. Scribner*, 2016 WL 3996152, at *7 (C.D. Cal. Jan. 19, 2016). Cf. *Winkles*, 795 F.3d at 1143 n.4 (“Because section 2253(c)(2) imposes the same standard for issuance of a COA in both section 2254 and 2255 proceedings, cases stating the COA standard in section 2254 habeas proceedings are fully applicable to section 2255 proceedings.”).

111

1 Here, in the order denying Petitioner’s Rule 60(b) motion, the Court found
2 that Petitioner failed to establish that relief under Rule 60(b) was warranted. The
3 Court noted that, to the extent that Petitioner sought relief under Rule 60(b)(1)-(3),
4 his Motion was untimely pursuant to the Rule’s express language. (Dkt. No. 157 at
5 2.) In considering the motion under Rule 60(b)(6), the Court noted that such a
6 motion must be made within a “reasonable time.” (*Id.* at 3.) The Court found that
7 Petitioner’s eighteen-year delay in bringing his motion was unreasonable, and that
8 Petitioner did not establish any legal justification to overcome the motion’s
9 untimeliness. (*Id.* at 3-4.)¹⁴ The Court finds that jurists of reason would not find it
10 debatable whether the Court abused its discretion in denying Petitioner’s Rule 60(b)
11 motion. Thus, Petitioner is not entitled to a COA as to the denial of the motion.

III. ORDER

13 For the reasons above, **IT IS ORDERED** that a certificate of appealability is
14 **DENIED** with respect to Petitioner's motion for relief brought under Rule 60 of the
15 Federal Rules of Civil Procedure. (Dkt. No. 153.)

17 | DATED: December 22, 2017

Revisions fallen

WILLIAM D. KELLER
UNITED STATES DISTRICT JUDGE

21 Cc: United States Court of Appeals for the Ninth Circuit
Appellate Case No. 17-56867

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

JAN 30 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GEORGE BRIDGETTE,

Petitioner-Appellant,

v.

DONALD R. HILL; et al.,

Respondents-Appellees.

No. 17-56867

D.C. No.

2:95-cv-04413-WDK-RAO
Central District of California,
Los Angeles

ORDER

Before: NGUYEN and OWENS, Circuit Judges.

The request for a certificate of appealability is denied because appellant has not shown "that (1) jurists of reason would find it debatable whether the district court abused its discretion in denying the Rule 60(b) motion and, (2) jurists of reason would find it debatable whether the underlying section [2254 petition] states a valid claim of the denial of a constitutional right." *United States v. Winkles*, 795 F.3d 1134, 1143 (9th Cir. 2015), *cert. denied*, 136 S. Ct. 2462 (2016); *see also* 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Lynch v. Blodgett*, 999 F.2d 401, 403 (9th Cir. 1993) (order).

Any pending motions are denied as moot.

DENIED.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

MAR 9 2018

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

GEORGE BRIDGETTE,

Petitioner-Appellant,

v.

DONALD R. HILL; et al.,

Respondents-Appellees.

No. 17-56867

D.C. No.

2:95-cv-04413-WDK-RAO
Central District of California,
Los Angeles

ORDER

Before: CANBY and SILVERMAN, Circuit Judges.

Appellant's petition for rehearing en banc (Docket Entry No. 5), which is construed as a motion for reconsideration en banc, is denied on behalf of the court.

See 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

No further filings will be entertained in this closed case.

**Additional material
from this filing is
available in the
Clerk's Office.**