

EXHIBIT

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IN THE UNITED STATES DISTRICT COURT

5
6 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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8 NEXIS RENE GOMEZ,
9 Petitioner,
10 v.
11 CONNIE GIPSON, Warden,
12 Respondent.

No. C 13-0963 WHA

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**ORDER DENYING CERTIFICATE
OF APPEALABILITY**

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27 Petitioner, a California prisoner proceeding *pro se*, filed a petition for a writ of habeas
28 corpus challenging his conviction pursuant to 28 U.S.C. 2254. On July 23, 2014, the petition
was denied on its merits. Petitioner appealed, but the United States Court of Appeals denied a
certificate of appealability on April 27, 2015. On August 22, 2017, petitioner filed a motion to
reopen the judgment under Rule 60(b) of the Federal Rules of Civil Procedure, which motion he
amended on December 1, 2017. On January 29, 2018, the motion was denied. Petitioner filed a
notice of appeal from the denial of his motion under Rule 60(b), and our court of appeals has
remanded the case for a determination whether a certificate of appealability should issue. Having
reviewed the motion, the amended motion, the order denying the motion, the notice of appeal,
and the other records in the file, no reasonable jurist would find that relief from judgment should
be granted under Rule 60(b). Accordingly a certificate of appealability is **DENIED**.

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28 **IT IS SO ORDERED.**

Dated: March 5, 2018.



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28 WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE

EXHIBIT

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UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

SEP 25 2018

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

NEXIS RENE GOMEZ,

No. 18-15251

Petitioner-Appellant,

D.C. No. 3:13-cv-00963-WHA
Northern District of California,
San Francisco

v.

CONNIE GIPSON, Warden, Warden,

ORDER

Respondent-Appellee.

Before: GRABER and M. SMITH, Circuit Judges.

The request for a certificate of appealability (Docket Entry No. 8) 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.

EXHIBIT

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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NOV 6 2018

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v.

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

D.C. No. 3:13-cv-00963-WHA
Northern District of California,
San Francisco

ORDER

Before: TROTT and WARDLAW, Circuit Judges.

The petition for rehearing is construed as a motion for reconsideration
(Docket Entry No. 10) and is denied. *See* 9th Cir. R. 27-10.

No further filings will be entertained in this closed case.