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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LOUIS ALFONSO MELENDEZ,

Petitioner - Appellant,

v.

GREG FIZER,

Respondent - Appellee.

No. 07-16057

D.C. No. CV-05-00891-SMM

MEMORANDUM*

Appeal from the United States District Court
for the District of Arizona
Stephen M. McNamee, District Judge, Presiding

Submitted June 16, 2009**

Before: PAEZ, TALLMAN and N.R. SMITH, Circuit Judges.

Arizona state prisoner Louis Alfonso Melendez appeals *pro se* from the district court's order denying his Federal Rule of Civil Procedure 60(b) motion for relief from the judgment denying his 28 U.S.C. § 2254 habeas petition. We have

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 28 U.S.C. § 2253. We review for abuse of discretion, *Harvest v. Castro*, 531 F.3d 737, 741 (9th Cir. 2008), and affirm.

The district court properly determined that Melendez presented no argument or evidence in his Rule 60(b) motion that would justify relief from the final judgment denying his § 2254 petition as procedurally barred.

AFFIRMED.