NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAKE HENDERSON, Petitioner - Appellant, v. DERRAL G. ADAMS, et al., Respondents - Appellees.	No. 08-56302 D.C. No. 3:06-cv-01554-JM MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
Jeffrey T. Miller, District Judge, Presiding

Submitted October 19, 2010**

Before: O'SCANNLAIN, TALLMAN, and BEA, Circuit Judges.

Jake Henderson appeals from the district court's order denying his Federal Rule of Civil Procedure 59 motion for reconsideration challenging the dismissal of his 28 U.S.C. § 2254 petition. We have jurisdiction under 28 U.S.C. § 2253, and we affirm.

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* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

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

Henderson contends that the district abused its discretion by denying his motion, which we construe as a motion for relief from final judgment based on Federal Rule of Civil Procedure 60(b). *See Straw v. Bowen*, 866 F.2d 1167, 1171-72 (9th Cir. 1989). The district court did not abuse its discretion when it denied Henderson's motion because his almost two-year delay before filing the motion was not reasonable. *See* Fed. R. Civ. P. 60(c) ("A motion under Rule 60(b) must be made within a reasonable time . . . ."); *In re Hammer*, 940 F.2d 524, 526 (9th Cir. 1991) (holding that it was not an abuse of discretion to find an unexcused two-year delay unreasonable).

AFFIRMED.