



1 now argues that difficult living circumstances led to problems with receiving mail, and that  
2 this warrants reconsideration of dismissal. (Doc. 15).

### 3           **II.     LEGAL STANDARD**

4           Although Plaintiff did not indicate which Federal Rule of Civil Procedure governed  
5 his Motion, a motion for reconsideration is appropriately brought under either Rule 59(e) or  
6 Rule 60(b). *Fuller v. M.G. Jewelry*, 950 F.2d 1437, 1442 (9th Cir. 1991). If a motion for  
7 reconsideration is filed more than twenty-eight days after judgment, it will be construed as  
8 a Rule 60(b) motion for relief from a judgment or order. *See Coyaso v. Bradley Pac.*  
9 *Aviation, Inc.*, CIV. 11-00267 JMS, 2012 WL 1883718 (D. Haw. May 21, 2012); citing *Am.*  
10 *Ironworks & Erectors, Inc. v. N. Am. Constr. Corp.*, 248 F.3d 892, 899 (9th Cir. 2001) (same  
11 rule under the pre-amendment ten day limit). The Court may grant a 60(b) motion for the  
12 following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly  
13 discovered evidence; (3) fraud, misrepresentation or other misconduct of the adverse party;  
14 (4) a void judgment; (5) a satisfied, released or discharged judgment, or (6) “extraordinary  
15 circumstances” which would justify relief. Fed. R. Civ. P. 60(b); *see Fuller*, 950 F.2d at  
16 1442 (citing *Taylor v. Knapp*, 871 F.2d 803, 805 (9th Cir. 1989)).

### 17           **III.     ANALYSIS**

18           Plaintiff’s argument that his circumstances justify reconsideration could conceivably  
19 fall only under the first or sixth reasons. If Plaintiff’s neglect in failing to comply with the  
20 Court’s Order was excusable, reconsideration is appropriate. “[T]he determination of whether  
21 neglect is excusable is an equitable one that depends on at least four factors: (1) the danger  
22 of prejudice to the opposing party; (2) the length of the delay and its potential impact on the  
23 proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith.”  
24 *Bateman v. U.S. Postal Serv.*, 231 F.3d 1220, 1223-24 (9th Cir. 2000). Plaintiff does not  
25 present any evidence relevant to the four factors. *Cf. id.* at 1224 (failure to discuss any of the  
26 factors could be grounds for denial of relief). Moreover, balancing the equities, relief would  
27 be inappropriate given Plaintiff’s repeated failure to comply with the Court’s orders.

28           Relief under the sixth reason requires a finding of “extraordinary circumstances.”

1 *McConnell v. MEBA Med. & Benefits Plan*, 759 F.2d 1401, 1407 (9th Cir. 1985). This case  
2 is not one of extraordinary circumstances and, accordingly, the Court will not reconsider its  
3 prior Order.

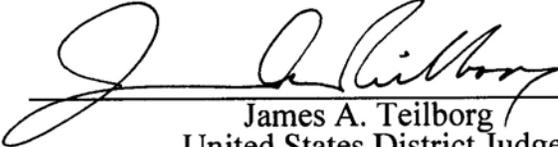
4 **IV. CONCLUSION**

5 Based on the foregoing,

6 **IT IS ORDERED** denying Plaintiff's Motion for Reconsideration. (Doc. 15).

7 **IT IS FURTHER ORDERED** that because this case is closed, all other pending  
8 motions (including Doc. 17) are denied as moot.

9 DATED this 10th day of July, 2012.

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13 James A. Teilborg  
14 United States District Judge  
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