

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

10 GAMALIEL NAJERA, } Civil No. 06CV336 JAH(TAG)
11 Plaintiff, }
12 v. }
13 A.SCRIVNER, Warden, }
14 Defendant. }

} **ORDER DENYING PLAINTIFF'S
MOTION TO ALTER OR AMEND
JUDGMENT**

16 On May 6, 2009, this Court issued an order denying plaintiff's petition for writ of
17 habeas corpus. Doc. 30. In that order, this Court erroneously stated that plaintiff did not
18 file a traverse to defendant's answer. On May 18, 2009, plaintiff filed a motion to alter or
19 amend judgment pursuant to Federal Rule of Civil Procedure 59(e), stating the Court's
20 error is one "of fact and law" and "created an erroneous prejudicial ruling in where (sic)
21 petitioner did not have an opportunity to fully litigate his habeas corpus ground." Doc.
22 32 at 1-2.

23 “A motion for reconsideration under Rule 59(e) should not be granted, absent
24 highly unusual circumstances, unless the district court is presented with newly discovered
25 evidence, committed clear error, or if there is an intervening change in the controlling
26 law.” McDowell v. Calderon, 197 F.3d 1253, 1255 (9th Cir. 1999)(citing 389 Orange St.
27 Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999).

28 The Court fully considered the facts and arguments in plaintiff's amended petition

1 before rendering its May 6, 2009 decision. Upon review, plaintiff's traverse does not
2 contain any additional facts or arguments that makes this Court believe its earlier decision
3 was in error. Accordingly, plaintiff's motion to amend or alter judgment is DENIED.

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5 DATED: September 28, 2009

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7 JOHN A. HOUSTON
8 United States District Judge

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