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10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA

12 CURLEY JOHN BROUSSARD, JR.,                     )  
13   Petitioner,                     )  
14                     v.                                     )  
15 LEE ANN CHRONES, et al.,                     )  
16   Respondents.                     )  
17

1:08-CV-01926 GSA HC

ORDER DENYING PETITIONER'S  
MOTION FOR RECONSIDERATION  
[Doc. #16]

18             Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus  
19 pursuant to 28 U.S.C. § 2254. On January 9, 2009, Petitioner returned the consent/decline form  
20 indicating consent to the jurisdiction of the Magistrate Judge.

21             On January 9, 2009, Petitioner filed a first amended petition for writ of habeas corpus. After  
22 conducting a preliminary review of the petition, on January 14, 2009, on the Court's own motion, the  
23 petition was dismissed with prejudice for failure to state a claim. Judgment was entered on the same  
24 date. On February 2, 2009, Petitioner filed a motion for reconsideration pursuant to Federal Rules of  
25 Civil Procedure § 60(b).

26             Rule 60(b) of the Federal Rules of Civil Procedure provides:

27             On motion and just terms, the court may relieve a party or its legal representative from a final  
28 judgment, order, or proceeding for the following reasons:

- (1) mistake, inadvertence, surprise, or excusable neglect;
- (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
- (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Petitioner fails to meet this standard. As discussed in the order dismissing the petition, Petitioner's claims are not cognizable in a federal habeas action. His claims concern conditions of his confinement and must therefore be presented in a civil rights action. Petitioner's arguments for reconsideration present no basis for relief.

Accordingly, the Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

**Dated: February 11, 2009**

**/s/ Gary S. Austin**  
UNITED STATES MAGISTRATE JUDGE