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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RODERICK TYRELL BLACK,	}	1:11-cv-02089 MJS HC
Petitioner,	}	ORDER DENYING MOTION FOR RECONSIDERATION
v.	}	(Doc. 23.)
TIM VIRGA, Warden,	}	
Respondent.	}	

Petitioner is a state prisoner proceeding pro se with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254.

On July 16, 2012, the undersigned granted Respondent's motion to dismiss. On August 16, 2012, Petitioner filed a motion for reconsideration pursuant to Federal Rules of Civil Procedure § 60(b).

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

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

- 1 (1) mistake, inadvertence, surprise, or excusable neglect;
- 2 (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 (3) fraud (whether previously called intrinsic or extrinsic),
misrepresentation, or misconduct by an opposing party;
- 4 (4) the judgment is void;
- 5 (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 (6) any other reason that justifies relief.

7 Petitioner argues that there is no time limitation on correcting his alleged unauthorized
8 sentence. He further argues that the Court mistakenly invoked the one-year statute of
9 limitations under 28 U.S.C. § 2244(d)(1) to his claim under Cunningham v. California, 549 U.S.
10 270 (2007). (ECF No. 23 at 6.)

11 The one-year statute of limitations period applies to every federal claim, and Petitioner
12 has not provided a sufficient showing of equitable tolling or the application of a later trigger
13 date of the limitations period. Petitioner has not provided any basis for relief from the dismissal
14 of his petition. Backlund v. Barnhart, 778 F.2d 1386, 1388 (9th Cir. 1985) (A reconsideration
15 motion is properly denied where it merely presents arguments previously raised in the prior
16 motion or opposition.)

17 Petitioner is not entitled to relief from judgment and motion for reconsideration is
18 DENIED.

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22 IT IS SO ORDERED.

23 Dated: September 18, 2012

1st Michael J. Seng
UNITED STATES MAGISTRATE JUDGE