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9
10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

12 ROBERTO HERRERA,

1:12-CV-02005 GSA HC

13 Petitioner,

ORDER DENYING PETITIONER'S
MOTION FOR RECONSIDERATION

14 v.

[Doc. #7]

15 CONNIE GIPSON,

16 Respondent.
17 _____ /

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. He has consented to the jurisdiction of the magistrate judge pursuant
20 to 28 U.S.C. § 636(c).

21 On January 3, 2013, the undersigned issued an order dismissing the petition for failure to
22 state a cognizable claim and failure to exhaust administrative and state court remedies. On January
23 22, 2013, Petitioner filed a motion for reconsideration pursuant to Federal Rules of Civil Procedure
24 § 60(b).

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

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

- 28 (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);

- 1 (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or
2 misconduct by an opposing party;
3 (4) the judgment is void;
4 (5) the judgment has been satisfied, released, or discharged; it is based on an earlier
5 judgment that has been reversed or vacated; or applying it prospectively is no
6 longer equitable; or
7 (6) any other reason that justifies relief.

8 Petitioner fails to meet this standard. Petitioner does not set forth any arguments or evidence
9 that have not already been considered by this Court. The federal petition was filed beyond the
10 expiration of the statute of limitations, and Petitioner has not sought relief either administratively or
11 in the state courts. Petitioner's arguments present no basis for relief.

12 Accordingly, Petitioner's motion for reconsideration is DENIED.

13 IT IS SO ORDERED.

14 Dated: January 28, 2013

15 /s/ Gary S. Austin
16 UNITED STATES MAGISTRATE JUDGE