

1 **DISCUSSION**

2 Federal Rule of Civil Procedure 60(b) governs the reconsideration of final orders of the district
3 court. Rule 60(b) permits a district court to relieve a party from a final order or judgment on grounds
4 of: “(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence . . . ; (3)
5 fraud . . . of an adverse party; (4) the judgment is void; (5) the judgment has been satisfied . . . or (6)
6 any other reason justifying relief from the operation of the judgment.” Fed. R. Civ. P. 60(b). A
7 motion under Rule 60(b) must be made within a reasonable time, in any event “not more than one year
8 after the judgment, order, or proceeding was entered or taken.” Id.

9 Moreover, when filing a motion for reconsideration, Local Rule 230(j) requires a party to show
10 the “new or different facts or circumstances claimed to exist which did not exist or were not shown
11 upon such prior motion, or what other grounds exist for the motion.” Motions to reconsider are
12 committed to the discretion of the trial court. Combs v. Nick Garin Trucking, 825 F.2d 437, 441
13 (D.C.Cir. 1987); Rodgers v. Watt, 722 F.2d 456, 460 (9th Cir. 1983) (en banc). To succeed, a party
14 must set forth facts or law of a strongly convincing nature to induce the court to reverse its prior
15 decision. See, e.g., Kern-Tulare Water Dist. v. City of Bakersfield, 634 F.Supp. 656, 665 (E.D.Cal.
16 1986), *aff’d in part and rev’d in part on other grounds*, 828 F.2d 514 (9th Cir. 1987).

17 Here, Petitioner failed to the requirements for granting a motion for reconsideration: He has not
18 shown “mistake, inadvertence, surprise, or excusable neglect;” nor has he shown the existence of either
19 newly discovered evidence or fraud; he has not established that the judgment is either void or satisfied;
20 and, finally, Petitioner has not presented any other reasons justifying relief from judgment. Moreover,
21 pursuant to the Court’s Local Rules, Petitioner has not shown “new or different facts or circumstances
22 claimed to exist *which did not exist or were not shown upon such prior motion*, or what other grounds
23 exist for the motion.” Local Rule 230(j). (Emphasis supplied).

24 Indeed, in his objections to the Magistrate Judge’s Findings and Recommendations, Petitioner
25 argued, as he does in the instant motions, that he qualifies for the “savings clause” of 28 U.S.C. sec.
26 2255 and that he has put forth a cognizable claim of actual innocence. (Docs. 21; 22). In the order
27 adopting the Findings and Recommendations, the Court expressly considered those points and rejected
28 them. (Doc. 19). Petitioner does not present any new evidence or legal arguments, but merely re-

1 argues the legal issues already considered and rejected by this Court. In sum, Petitioner has provided
2 no evidence or circumstances that would satisfy the requirements of Rule 60(b), and therefore his
3 motion for reconsideration and motion for re-hearing must be denied.

4 **ORDER**

5 Accordingly, it is HEREBY ORDERED as follows:

- 6 1. Petitioner's motion for reconsideration (Doc. 21), is DENIED.
7 2. Petitioner's motion for re-hearing (Doc. 22), is DENIED.

8
9 IT IS SO ORDERED.

10 Dated: March 19, 2015

11 
12 _____
13 SENIOR DISTRICT JUDGE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28