

1 **UNITED STATES DISTRICT COURT**
2 **EASTERN DISTRICT OF CALIFORNIA**

3
4 MARCELLUS ALEXANDER GREENE
5 a/k/a MARVELLOUS AFRIKAN
6 WARRIOR,

7
8 Petitioner,

9 v.

10 C.E. DURCART,

11 Respondent.

Case No. 1:15-cv-00137-bam HC

ORDER DENYING MOTION
TO SET ASIDE JUDGMENT

(Doc. 14)

12 Petitioner, a state prisoner proceeding *pro se* and *in forma pauperis*, moves pursuant to
13 F.R.Civ.P. 59(e), to set aside the Court's January 29, 2015 order dismissing his petition for writ of
14 habeas corpus pursuant to 28 U.S.C. § 2254. The Court referred the matter to the Magistrate Judge
15 pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 304.

16 Rule 59(e) provides, "A motion to alter or amend a judgment must be filed no later than 28
17 days after entry of the judgment. " Because more than 28 days elapsed between the entry of
18 judgment on January 29, 2015, and Petitioner's filing his motion on June 15, 2015, the Court must
19 deny the motion as untimely.

20 Further, the motion for reconsideration fails to give any coherent or intelligible reasons for
21 the Court to reconsider its ruling that Petitioner failed to exhaust state remedies.

22 Accordingly, the Court hereby ORDERS that Petitioner's motion for reconsideration pursuant
23 to F.R.Civ.P. 59(e) (Doc. 14), filed June 15, 2015, be DENIED as untimely.

24 IT IS SO ORDERED.

25 Dated: June 29, 2015

26 /s/ Barbara A. McAuliffe
27 UNITED STATES MAGISTRATE JUDGE

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