

1 forth cognizable claims and because the claims as presented made clear Petitioner could not state a
2 viable claim for relief, the Second Amended Petition was dismissed without leave to amend. On
3 January 3, 2017, Petitioner filed the instant motion for reconsideration.

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

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

19 Petitioner has failed to satisfy any of the requirements for granting a motion for
20 reconsideration: He has not shown “mistake, inadvertence, surprise, or excusable neglect;” he has not
21 shown the existence of newly discovered evidence or fraud; he has not established that the judgment is
22 either void or satisfied; and, finally, he has not presented any other reasons justifying relief from
23 judgment. In addition, pursuant to the Court’s Local Rules, Petitioner has not shown “new or different
24 facts or circumstances claimed to exist which did not exist or were not shown upon such prior motion,
25 or what other grounds exist for the motion.” Local Rule 230(j).

26 Rather, Petitioner asks for an opportunity to file a Third Amended Petition in order to include
27 additional case law citations. In the order dismissing the Second Amended Petition, the Court noted
28 that Petitioner has had multiple opportunities to present a viable claim for relief but failed to do so. In

1 addition, all of Petitioner's claims were either foreclosed by the Supreme Court's decision in
2 Swarthout v. Cooke, 562 U.S. 216 (2011), or were not cognizable because they challenged the
3 conditions of confinement. None of the claims presented could be cured with additional case law
4 citations.

5 In sum, Petitioner has provided no evidence or circumstances that would satisfy the
6 requirements of Rule 60(b), and therefore his motion for reconsideration must be denied.

7 **ORDER**

8 Accordingly, it is the Court **ORDERS** that Petitioner's motion for reconsideration (Doc. 13), is
9 **DENIED**.

10
11 IT IS SO ORDERED.

12 Dated: January 5, 2017

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE