

1 and dismissed this action, with prejudice, due to Plaintiff's failure to state a claim, failure to obey
2 a court order, and failure to prosecute. Doc. No. 12. Judgment was entered the same date. Doc.
3 No. 13.

4 On July 15, 2019, the Clerk docketed Plaintiff's objections to the findings and
5 recommendations. Doc. No. 14. On November 21, 2019, the Court found that relief from
6 judgment and the order adopting the findings and recommendations was appropriate and ordered
7 Plaintiff to file either a Rule 41(a) dismissal or an amended complaint within thirty (30) days.
8 Doc. No. 16. Plaintiff was warned that failure to timely comply with the Court's order would
9 result in the readoption of the findings and recommendations and the closure of this case without
10 further notice. Id.

11 Following two extensions of time (Doc. Nos. 18, 20), the deadline expired for Plaintiff to
12 file a Rule 41(a) dismissal, amended complaint, or properly supported request for a reasonable
13 extension of time, and Plaintiff otherwise failed to communicate with the Court. Accordingly, on
14 June 29, 2020, the Court readopted the June 11, 2019 findings and recommendations in full and
15 dismissed this action, with prejudice, due to Plaintiff's failure to state a claim, failure to obey a
16 court order, and failure to prosecute. Doc. No. 21. Judgment was entered the same date. Doc.
17 No. 22.

18 Currently before the Court is Plaintiff's motion for clarification and reconsideration of
19 dismissal, filed October 29, 2020. Doc. No. 23. Plaintiff contends that he mailed a completed
20 amended complaint to the Court in February 2020, a response to the Court's order granting his
21 second extension of time in March 2020, and a response to the Court's order readopting the
22 findings and recommendations in July 2020. However, Plaintiff states, none of these mailings
23 were received by the prison mailroom to process for mailing, and there are no entries in the
24 prison's legal mail log that these were ever received. Plaintiff states that he cannot provide exact
25 dates of the mailings because he fears that prison staff will falsify a dated log using those dates.
26 Plaintiff includes other allegations regarding mail tampering by prison staff related to other legal
27 mailings and grievance forms. The Court will construe the filing as a motion for reconsideration.

28 In his motion, it appears Plaintiff is requesting that the Court reopen his case yet again to

1 provide him an opportunity to file an amended complaint, based on his statements that his legal
2 mail was prevented from reaching the Court. However, Plaintiff has provided no support, other
3 than his own assertions, that he actually prepared an amended complaint or any other document
4 for filing with the Court. Plaintiff has not provided copies of any of the documents he attempted
5 to file, nor has he provided a copy of the legal mail log he received from the prison mailroom.

6 The Court has discretion to reconsider and either vacate or stand on a prior order. Barber
7 v. Hawai'i, 42 F.3d 1185, 1198 (9th Cir. 1994); United States v. Nutri-cology, Inc., 982 F.2d 394,
8 397 (9th Cir. 1992). Federal Rule of Civil Procedure 60(b) governs the reconsideration of final
9 orders of the district court. Rule 60(b) permits a district court to relieve a party from a final order
10 or judgment on the grounds of: “(1) mistake, inadvertence, surprise, or excusable neglect . . . or
11 (6) any other reason that justifies relief.” Fed. R. Civ. P. 60(b). Additionally, when filing a
12 motion for reconsideration of an order, a party must show “what new or different facts or
13 circumstances are claimed to exist which did not exist or were not shown upon such prior motion,
14 or what other grounds exist for the motion.” Eastern District of California Local Rule 230(j)(3).
15 Plaintiff has not met that burden.

16 The Court finds no good cause to grant Plaintiff reconsideration and reopen this action.
17 Accordingly, Plaintiff’s motion for reconsideration (Doc. No. 23) is HEREBY DENIED. This
18 action remains closed.

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20 IT IS SO ORDERED.

21 Dated: December 21, 2020


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SENIOR DISTRICT JUDGE