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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DALE OWEN DUSTIN,  
Petitioner,  
v.  
GIPSON, Warden,  
Respondent.

No. 2:11-cv-02752-GEB-JFM

ORDER

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. On March 7, 2012, an order was filed, (ECF No. 7), which adopted the Magistrate Judge’s February 7, 2012 Findings and Recommendations, (ECF No. 5), in full, dismissed the habeas petition, denied Petitioner’s November 30, 2011 motion for temporary restraining order, and declined to issue a certificate of appealability. Judgment was entered accordingly on the same day. (ECF No. 8.) Petitioner now seeks relief from final judgment under Federal Rule of Civil Procedure 60(b), (ECF No. 17), and the appointment of counsel, (ECF No. 18).

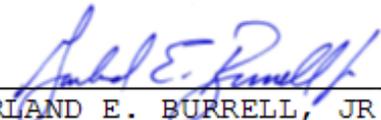
Rule 60(b) of the Federal Rules of Civil Procedure provides:

On motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons: (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); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; (5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.

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Petitioner’s Rule 60(b) motion fails to demonstrate that he is entitled to relief from judgment. Accordingly, that motion, (ECF No. 17), is denied. Petitioner’s motion for appointment of counsel, (ECF No. 18), is also denied.

Dated: March 13, 2015

  
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GARLAND E. BURRELL, JR.  
Senior United States District Judge