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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GERALD MACHEN,
Petitioner,
v.
RICK HILL,
Respondent.

No. 2:13-cv-1170 MCE CKD P

ORDER

Before the court is petitioner’s April 15, 2014 motion to alter or amend the judgment entered on March 28, 2014, dismissing as time-barred his petition for a writ of habeas corpus. A district court may reconsider a ruling under either Federal Rule of Civil Procedure 59(e) or 60(b). See Sch. Dist. Number. 1J, Multnomah County v. ACandS, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993). “Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” Id. at 1263.

In its judgment of dismissal, this court stated that neither party had filed objections to the magistrate judge’s findings and recommendations, filed December 23, 2013. (ECF No. 21 at 1.) On the day the judgment issued, however, petitioner’s objections to the findings and

1 recommendations were docketed. (ECF No. 23.) This court therefore reviews its judgment of
2 dismissal for clear error and/or manifest injustice in light of petitioner's objections.

3 In his objections, petitioner argues that, although he sustained the challenged criminal
4 conviction in 2002, the one-year statutory limitations period under AEDPA began running in
5 2011, when he received a copy of a hearing transcript in his criminal case. Petitioner further
6 argues that the limitations period was subject to statutory and equitable tolling, such that the
7 instant petition, filed in 2013, was timely. These issues were addressed in the findings and
8 recommendations adopted by this court. As petitioner has not shown that the judgment of
9 dismissal was clearly erroneous or manifestly unjust, his motion for reconsideration will be
10 denied.

11 Accordingly, IT IS HEREBY ORDERED that petitioner's motion to alter or amend the
12 judgment (ECF No. 24) is denied.

13 Dated: May 13, 2014

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15 MORRISON C. ENGLAND, JR., CHIEF JUDGE
16 UNITED STATES DISTRICT COURT

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