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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EDWARD FRANCIS SCIOSCIOLE,
Petitioner,
v.
GOWER,
Respondent.

No. 2:13-cv-2438 CKD P

ORDER

Petitioner, a California prisoner proceeding pro se, has filed a motion asking that the court reopen this habeas action which was closed on August 5, 2016 when petitioner’s application for a writ of habeas corpus was denied. Both parties have consented to having all matters in this action before a United State Magistrate Judge. See 28. U.S.C. § 636(c).

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.

Petitioner asks that this case be re-opened so he may file a timely notice of appeal with respect to this court’s denial of his first motion to re-open this case which the court denied November 14, 2017. Petitioner asserts his initial notice of appeal with respect to denial of that

1 motion was untimely essentially due to his lack of knowledge of the law. Because petitioner has
2 not demonstrated that the denial of his petition for habeas corpus was manifestly unjust, or any
3 other basis for relief under Rule 60(b), his motion to reopen this case will be denied.

4 Accordingly, IT IS HEREBY ORDERED that petitioner's motion to re-open this case
5 (ECF No. 69) is denied.

6 Dated: July 10, 2018

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9 CAROLYN K. DELANEY
10 UNITED STATES MAGISTRATE JUDGE

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