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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

Aaron Montgomery,
Petitioner,
v.
S. Perry
Respondent.

No. 2:15-cv-01220-KJM-AC

ORDER

Petitioner, proceeding pro se, filed a petition for writ of habeas corpus in June of 2015. On March 17, 2021, this action was dismissed without prejudice for failure to prosecute, and judgment was entered. Order, ECF No. 56; J., ECF No. 57.

Petitioner now moves for reconsideration. Mot. for Reconsideration, ECF No. 58. The court construes this pleading as a request for relief from judgment pursuant to Federal Rule of Civil Procedure 60(b). Under Rule 60(b), 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;

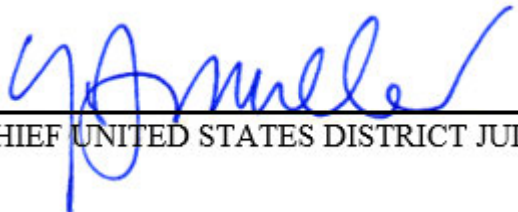
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- (4) the judgment is void;
- (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or
- (6) any other reason that justifies relief.

Fed. R. Civ. P. 60(b). After reviewing the record in light of petitioner’s most recent filing, the court finds petitioner has not made the showing required for relief under any provision of Federal Rule 60(b). In particular, petitioner has not shown why the matter should not have been dismissed due to his failure to prosecute, by demonstrating excusable neglect, newly discovered evidence or fraud.

Accordingly, IT IS HEREBY ORDERED that petitioner’s motion for reconsideration, construed as a request for relief from judgment, is denied.

DATED: April 5, 2021.



CHIEF UNITED STATES DISTRICT JUDGE