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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CONNOR ALBERT DAVIS,  
Plaintiff,  
v.  
CDCR, et al.,  
Defendants.

No. 2:15-cv-1594-MCE-EFB P

ORDER

On March 30, 2016, the Court entered judgment in favor of Defendants pursuant to its Order adopting the magistrate judge’s Findings and Recommendations and dismissing the case with prejudice. ECF Nos. 28, 29. Presently before the Court is Plaintiff’s Motion to Re-Open the Case (“Motion”). ECF No. 32. Plaintiff previously filed such a motion, which the court construed as a motion for reconsideration under Federal Rule of Civil Procedure 60(b). ECF Nos. 30, 31. That motion was denied by order filed September 2, 2016. ECF No. 31. Like the prior motion, the instant motion is construed as a motion for reconsideration under Rule 60(b). So construed, the Motion is hereby DENIED.

A motion for reconsideration is properly brought pursuant to either Federal Rule of Civil Procedure 59(e) or Rule 60(b). Taylor v. Knapp, 871 F.2d 803, 805 (9th Cir. 1989). Such a motion is treated as a Rule 59(e) motion if filed within twenty-eight days of entry of judgment,

1 but as a Rule 60(b) motion if filed more than twenty-eight days after judgment is entered. See  
2 Am. Ironworks & Erectors, Inc. v. N. Am. Constr. Corp., 248 F.3d 892, 898-99 (9th Cir. 2001). A  
3 motion may be construed under Rule 59 or Rule 60 even though it is not labeled as such, or not  
4 labeled at all. Taylor, 871 F.2d at 805. Since Plaintiff's Motion was filed more than twenty-eight  
5 days from the entry of judgment and seeks relief from a final judgment, the Court will treat it as a  
6 motion under Rule 60(b).

7 Rule 60(b) provides for reconsideration of a final judgment or any order where one of  
8 more of the following is shown: (1) mistake, inadvertence, surprise, or excusable neglect; (2)  
9 newly discovered evidence which, with reasonable diligence, could not have been discovered  
10 within twenty-eight days of entry of judgment; (3) fraud, misrepresentation, or misconduct of an  
11 opposing party; (4) voiding of the judgment; (5) satisfaction of the judgment; and (6) any other  
12 reason justifying relief. Fed. R. Civ. P. 60(b). A motion for reconsideration on any of these  
13 grounds must be brought within a reasonable time, and no later than one year, of the entry of the  
14 judgment or the order being challenged. Id. Additionally, Local Rule 230(j) requires a party filing  
15 a motion for reconsideration to show the "new or different facts or circumstances claimed to exist  
16 which did not exist or were not shown upon such prior motion, or what other grounds exist for the  
17 motion." E.D. Cal. Local Rule 230(j).

18 A court should be loath to revisit its own decisions unless extraordinary circumstances  
19 show that its prior decision was clearly erroneous. Christianson v. Colt Indus. Operating Corp.,  
20 486 U.S. 800, 817 (1988). This principle is embodied in the law of the case doctrine, under which  
21 "a court is generally precluded from reconsidering an issue that has already been decided by the  
22 same court, or a higher court in the identical case." United States v. Alexander, 106 F.3d 874, 876  
23 (9th Cir. 1997) (quoting Thomas v. Bible, 983 F.2d 152, 154 (9th Cir. 1993)). Mere  
24 dissatisfaction with the court's order, or belief that the court is wrong in its decision, is not  
25 grounds for relief under Rule 60(b). Twentieth Century-Fox Film Corp. v. Dunnahoo, 637 F.2d  
26 1338, 1341 (9th Cir. 1981). Accordingly, a district court may properly deny a motion for  
27 reconsideration that simply reiterates an argument already presented by the petitioner. Maraziti v.  
28 Thorpe, 52 F.3d 252, 255 (9th Cir. 1995). The decision to grant or deny a motion for relief from

1 judgment pursuant to Rule 60(b) is addressed to the sound discretion of the district court. Turner  
2 v. Burlington N. Santa Fe R.R., 338 F.3d 1058, 1063 (9th Cir. 2003); Harman v. Harper, 7 F.3d  
3 1455, 1458 (9th Cir. 1993).

4           Once again, Plaintiff has failed to meet his burden under Rule 60(b). Accordingly,  
5 Plaintiff's Motion (ECF No. 32) is DENIED.

6           IT IS SO ORDERED.

7 Dated: November 22, 2016

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9 MORRISON C. ENGLAND, JR.  
10 UNITED STATES DISTRICT JUDGE

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