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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JIMMIE STEPHEN,
Plaintiff,
v.
R. W. FOX, et al.,
Defendants.

No. 2:16-cv-2574 CKD P

ORDER

On January 26, 2017, plaintiff, a Three Strikes litigant, was ordered to pay the filing fee within fourteen days or face dismissal of this action. (ECF No. 7.) That period has now expired, and plaintiff has filed what is effectively a motion for reconsideration of the January 26, 2017 order (ECF No. 9), but has not paid the filing fee.

A district court¹ 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. Here, the January 26, 2017 order was not clearly erroneous nor manifestly unjust, and none of the other factors

¹ Plaintiff has consented to magistrate judge jurisdiction to conduct all proceedings in this action. (ECF No. 4.)

1 apply. Because plaintiff has not paid the filing fee within the required time period, the court will
2 dismiss this action.

3 Accordingly, IT IS HEREBY ORDERED that:

- 4 1. Plaintiff's motion to alter or amend judgment (ECF No. 9) is denied; and
5 2. This action is dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

6 Dated: February 16, 2017

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9 CAROLYN K. DELANEY
10 UNITED STATES MAGISTRATE JUDGE

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