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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MAHDEE ABDUL AKBAR
Plaintiff,
v.
JENNIFER BARRETTO,
Defendant.

No. 2:17-cv-00140 GGH

ORDER

PROCEDURAL BACKGROUND

Plaintiff was a proceeding in pro se in this action that was originally brought as a petition for habeas corpus in the Northern District of California. The matter was transferred to this court by Northern District Magistrate Judge Maria-Elena James on January 19, 2017. ECF No. 4. On February 28, 2017, this court dismissed the transferred complaint without prejudice to permit filing of an amended complaint alleging violation of plaintiff’s civil rights under 28 U.S.C. section 1983 within 30 days of the issuance of the Order if he so chose. ECF No. 14. This Order also notified plaintiff that his failure to comply with its terms could lead to a dismissal with prejudice. On March 7, 2017 this court granted plaintiff’s request to proceed in forma pauperis. ECF No. 17. Plaintiff filed no amended complaint, but he did request appointment of counsel. ECF No. 18. The request for counsel was denied and the plaintiff’s action was dismissed with

1 prejudice for failure to follow the court's directions to file an amended complaint in conformity
2 with the terms found in the Order filed April 10, 2017. ECF No. 19. Judgment was entered on
3 the same date. ECF No. 20. On June 1, 2017 plaintiff filed a Motion for Reconsideration of the
4 dismissal and entry of judgment. ECF No. 21.

5 *DISCUSSION*

6 Plaintiff does not address his failure to file an amended complaint in this motion. Instead
7 he asserts that Judge Thelton Henderson of the Northern District ordered some relief in this case
8 before it was transferred. There is, however, no order by Judge Henderson in the record of this
9 case and, in fact, Judge Henderson was never assigned this case while it was pending in his
10 District.

11 The court will construe plaintiff's Motion as having been brought under Federal Rule of
12 Civil Procedure 60(b), which permits the court to relieve a party from a final judgment for one of
13 the following reasons: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly
14 discovered evidence; (3) fraud, misrepresentation or misconduct by an opposing party; (4) the
15 judgment is void; (5) the judgment has been satisfied, release, or discharged; or (6) any other
16 reason that justifies relief. None of these bases exist in the present case, and therefore the
17 judgment must stand.

18 *CONCLUSION*

19 For all of the foregoing reasons, plaintiff's Motion for Reconsideration is DENIED, the
20 Clerk shall close this case, and no further filings shall be docketed.

21 IT IS SO ORDERED.

22 Dated: June 7, 2017

23 /s/ Gregory G. Hollows
24 UNITED STATES MAGISTRATE JUDGE
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