

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD ANTHONY EVANS,  
  
Plaintiff,  
  
v.  
  
SUISUN POLICE DEPARTMENT, et al.,  
  
Defendants.

No. 2:17-cv-01889-KJM-DMC (P)

ORDER

On August 7, 2018, the court adopted the magistrate judge’s findings and recommendations, ECF No. 13, and dismissed this case for failure to state a claim and for lack of prosecution and failure to comply with court rules and orders. ECF No. 16. Since that time, plaintiff has filed three post-judgment motions: a motion to reopen the case, ECF No. 18; a motion for federal protection and release from CDCR custody, ECF No. 21; and a motion to obtain a personal laptop containing evidence, ECF No. 23. Each of these motions is DENIED.

Principally, plaintiff seeks to reopen this case based on “newly discovered evidence” related to his underlying convictions. ECF No. 16. But, as the magistrate judge correctly explained, and this court so adopted, a challenge related to a state prisoner’s underlying conviction is not cognizable under 42 U.S.C. § 1983; rather, the sole remedy for such a challenge comes through a petition for habeas corpus. ECF No. 13 (citing *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973)). Thus, any “newly discovered evidence” purportedly available to plaintiff does

1 not alter his ability to state a cognizable claim under section 1983. Therefore, plaintiff presents  
2 no justification for reopening this matter. *See* Fed. R. Civ. P. 60(b) (enumerating grounds for  
3 relief from judgment). Because there are no grounds for post-judgment relief, plaintiff's two  
4 additional motions, ECF Nos. 21, 23, are also DENIED.

5 Accordingly, plaintiff's three post-judgment motions, ECF Nos. 18, 21, 23, are  
6 DENIED. No further filings will be accepted in this matter.

7 IT IS SO ORDERED.

8 DATED: June 21, 2019.

9   
10 \_\_\_\_\_  
11 UNITED STATES DISTRICT JUDGE  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28