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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LINDA TAMMY GABALDON,
Petitioner,
v.
ATTORNEY GENERAL,
Respondent.

No. 2:18-cv-1853-MCE-EFB P

FINDINGS AND RECOMMENDATIONS

Petitioner, a state prisoner proceeding pro se, filed an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. By order filed January 4, 2019, this action was summarily dismissed. ECF No. 14. Judgment was entered on the same day. ECF No. 15. On July 18, 2019, after the case was closed, petitioner filed a two-sentence request to reopen her case. ECF No. 16. In an abundance of caution, the court construes petitioner’s request as a motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. So construed, the motion must be denied.

Rule 60(b) provides for reconsideration of a final judgment where one of more of the following is shown: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence which, with reasonable diligence, could not have been discovered within twenty-eight days of entry of judgment; (3) fraud, misrepresentation, or misconduct of an opposing party; (4) voiding of the judgment; (5) satisfaction of the judgment; and (6) any other

1 reason justifying relief. Fed. R. Civ. P. 60(b). A motion for reconsideration on any of these
2 grounds must be brought within a reasonable time, and no later than one year, of the entry of the
3 judgment or the order being challenged. *Id.* Additionally, Local Rule 230(j) requires a party
4 filing a motion for reconsideration to show the “new or different facts or circumstances claimed
5 to exist which did not exist or were not shown upon such prior motion, or what other grounds
6 exist for the motion.” E.D. Cal. Local Rule 230(j).

7 Here, petitioner’s motion fails to address these standards and otherwise sets forth no basis
8 for reconsideration of the court’s final order. Thus, petitioner has failed to meet her burden under
9 Rule 60(b).

10 Accordingly, IT IS HEREBY RECOMMENDED that petitioner’s July 18, 2019 request,
11 construed as motion for relief from judgment pursuant to Rule 60(b) (ECF No. 16), be denied.

12 These findings and recommendations are submitted to the United States District Judge
13 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days
14 after being served with these findings and recommendations, any party may file written
15 objections with the court and serve a copy on all parties. Such a document should be captioned
16 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the
17 objections shall be served and filed within fourteen days after service of the objections. The
18 parties are advised that failure to file objections within the specified time may waive the right to
19 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*
20 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

21 Dated: October 7, 2019.

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23 EDMUND F. BRENNAN
24 UNITED STATES MAGISTRATE JUDGE
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