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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DON LAFLAMME,  
  
  Petitioner,  
  
  v.  
  
JEFF LYNCH  
  
  Respondent.

Case No. 2:21-cv-00756-JAM-JDP (HC)  
  
FINDINGS AND RECOMMENDATIONS  
THAT PETITIONER’S MOTION FOR  
RECONSIDERATION BE DENIED  
  
ECF No. 18

This case was dismissed for failure to prosecute, failure to obey court orders, and failure to state a claim on February 9, 2022, after petitioner declined to file an amended petition as directed. *See* ECF Nos. 13, 14, & 16. After the case was closed, petitioner filed a motion for “correction of rights.” ECF No. 18. Title notwithstanding, the substance of the filing indicates that it is a motion to alter or amend a judgment under Federal Rule of Civil Procedure 59(e), and I will treat it as such.

A motion to alter or amend a judgment may only be granted where “(1) the district court is presented with newly discovered evidence, (2) the district court committed clear error or made an initial decision that was manifestly unjust, or (3) there is an intervening change in controlling law.” *Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th Cir. 2001). None of these circumstances apply. Petitioner references his liberty interests under the First, Fourth, Eighth, and Fourteenth Amendments to the Constitution and argues that he has been prevented from appealing a right created by *Coleman v. Wilson*, 912 F. Supp. 1282 (E.D. Cal. Sept. 1995), a case litigated by a class of inmates who alleged that mental health services provided by the California

1 Department of Corrections were so inadequate as to violate their constitutional rights. Petitioner  
2 does not explain how *Coleman*, which concerned claims under section 1983, is relevant to this  
3 habeas case, however. It is difficult to imagine a scenario in which it would be, given that the  
4 dismissal in this case was predicated on petitioner's failure to comply with court orders, failure to  
5 prosecute, and failure to state a viable claim in his initial petition. ECF Nos. 11, 14, & 16.<sup>1</sup> In  
6 short, there is no newly discovered evidence, clear error, or intervening change in law that would  
7 support altering the district court's judgment.

8 It is, therefore, RECOMMENDED that petitioner's motion for correction of rights, ECF  
9 No. 18, be DENIED.

10 These findings and recommendations are submitted to the U.S. District Court Judge  
11 presiding over this case under 28 U.S.C. § 636(b)(1)(B) and Rule 304 of the Local Rules of  
12 Practice for the United States District Court, Eastern District of California. Within fourteen days  
13 of service of the findings and recommendations, petitioner may file written objections to the  
14 findings and recommendations with the court. That document must be captioned "Objections to  
15 Magistrate Judge's Findings and Recommendations." The District Judge will then review the  
16 findings and recommendations under 28 U.S.C. § 636(b)(1)(C).

17  
18 IT IS SO ORDERED.

19 Dated: June 7, 2022

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21 JEREMY D. PETERSON  
22 UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> I note that the initial petition did not concern *Coleman*, and instead attacked a 2018 conviction obtained in the Amador County Superior Court. ECF No. 1 at 1.