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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WILLIE L. BOLDS,
Plaintiff,
v.
D. ASUNCION,
Defendant.

Case No. [16-cv-02449-JSC](#)

**ORDER DENYING MOTION FOR
RELIEF FROM JUDGMENT**

Re: Dkt. No. 8

Petitioner, a prisoner of the State of California proceeding pro se, filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging his sentence.¹ Upon initial review of the petition under Rule 4 of the Rules Governing Section 2254 Cases, the Court dismissed the petition on the grounds that it does not state a cognizable basis for federal habeas relief.

Petitioner has filed a motion for relief from judgment under Rule 60(b)(1) of the Federal Rules of Civil Procedure. Rule 60(b)(1) provides for relief from judgment where the Court has committed mistake, inadvertence, surprise or excusable neglect. Petitioner argues that under 28 U.S.C. § 636(b)(1)(B), a District Court Judge was supposed to make a de novo review of the dismissal order, and a United States Magistrate Judge has “no authority to make a final and binding disposition.” (ECF No. 8 at 2-3.) The undersigned United States Magistrate Judge had the authority to dismiss the case and enter judgment because Petitioner consented to the jurisdiction of a United States Magistrate Judge. ECF No. 3; *see also* 28 U.S.C. § 636(c)(1); *Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995) (where a prisoner consents to a magistrate

¹ Petitioner has consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 3.)

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judge's jurisdiction and upon initial review the magistrate judge dismissed the case because the allegations in the complaint do not state a cognizable claim for relief, the defendants are not parties to the action and their lack of consent does not deprive the magistrate judge of jurisdiction to dismiss the complaint and enter judgment under 28 U.S.C. § 636(c)). Because of such consent, moreover, the dismissal order is not reviewed by a United States District Judge under 28 U.S.C. § 636(b)(1)(B). Rather, Petitioner may obtain review by filing an appeal to the United States Court of Appeals for the Ninth Circuit. *See* 28 U.S.C. § 636(c)(3). Accordingly, the motion for relief from judgment is DENIED.

IT IS SO ORDERED.

Dated: October 14, 2016


JACQUELINE SCOTT CORLEY
United States Magistrate Judge

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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on October 14, 2016, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Willie L. Bolds ID: E-00865
CSP-Lancaster
P.O. Box 4430
Lancaster, CA 93539

Dated: October 14, 2016

Susan Y. Soong
Clerk, United States District Court

By: 
Ada Means, Deputy Clerk to the
Honorable JACQUELINE SCOTT CORLEY