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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

SHAWN WOODALL,
CDCR #F-91270,

Plaintiff,

vs.

U.S. MARSHAL SERVICE, et al.,

Defendants.

Civil No. 01cv0179 BTM (POR)

**ORDER DENYING PLAINTIFF'S
MOTION TO REOPEN CASE**

Shawn Woodall ("Plaintiff"), a state inmate currently incarcerated at the R. J. Donovan Correctional Facility, initially filed this action on January 31, 2001. The Court dismissed Plaintiff's Complaint as frivolous because it was duplicative of a civil rights action he was already litigating in *Woodall v. Imperial County Sheriff, et al.* S.D. Cal. Civil Case No. 00-2584 JM (LSP). See Apr. 16, 2001 Order at 3. The Clerk of Court was directed to close the file. *Id.* The Clerk entered judgment and the dismissal was "without prejudice to Plaintiff's pursuit of the same claims presented herein in Civil Case Number 00cv2584 JM (LSP)." See Clerk's Judgment, Doc. No. 3, at 1.

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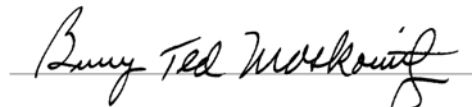
1 On April 15, 2010, Plaintiff filed a “Notice of Motion and Motion to Reopen Case
2 Pursuant to Rule 15 of the Federal Rules of Civil Procedure, or in the Alternative Motion to
3 Vacate Order of Dismissal Pursuant to Rule 60(b).” [Doc. No. 6].

4 Plaintiff contends that he never received a copy of the Court’s Order of dismissal but he
5 understands that it has constituted a “strike” against him pursuant to 28 U.S.C. § 1915(g). *See*
6 Pl.’s Mot. at 6-7. As a result, he has been unable to proceed *in forma pauperis* in other cases.
7 Thus, he seeks an Order from this Court allowing him to re-open this case and file an Amended
8 Complaint to correct whatever problems the Court addressed in the dismissal Order dated April
9 17, 2001. *Id.*

10 As stated above, Plaintiff’s original Complaint was dismissed because it was duplicative
11 of another case he had already filed. It would be futile to allow Plaintiff to amend his Complaint
12 in this action because he had already filed the same claims in *Woodall v. Imperial County*
13 *Sheriff, et al.* S.D. Cal. Civil Case No. 00-2584 JM (LSP). Moreover, there is nothing in the
14 Court’s docket to indicate that Plaintiff ever inquired into the status this matter until this Motion
15 was filed nine years after the Court dismissed his case. A motion brought pursuant to
16 FED.R.CIV.P. 60 requires that such a motion “must be made within a reasonable time,” and for
17 reasons set forth in Plaintiff’s Motion, “no more than a year after the entry of judgment or order
18 or date of the proceeding.” FED.R.CIV.P. 60(c)(1). Plaintiff’s current Motion far exceeds the
19 time permitted by Rule 60. Thus, the Court DENIES Plaintiff’s Motion to Reopen the Case.

20 **IT IS SO ORDERED**

21 DATED: April 23, 2010

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23 Honorable Barry Ted Moskowitz
24 United States District Judge