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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 MYKAL S. RYAN,

12 Plaintiff,

13 vs.

14 TIMOTHY M. HYDEN, et al.,

15 Defendants.

CASE NO. 10 CV 1206 MMA (WVG)

**ORDER DENYING PLAINTIFF'S
MOTION FOR
RECONSIDERATION**

[Doc. No. 20]

16 On May 11, 2011, Plaintiff Mykal S. Ryan filed an "Objection to Decision and Motion to
17 Continue Prosecution of Case." [Doc. No. 9.] The Court construes Plaintiff's objection to the
18 dismissal of his case as a motion for reconsideration under Federal Rule of Civil Procedure 60(b).¹

19 Rule 60(b) provides for reconsideration where one or more of the following is shown: (1)
20 mistake, inadvertence, surprise or excusable neglect; (2) newly discovered evidence which by due
21 diligence could not have been discovered before the court's decision; (3) fraud by the adverse
22 party; (4) voiding of the judgment; (5) satisfaction of the judgment; (6) any other reason justifying
23 relief. Fed. R. Civ. P. 60(b); *School Dist. 1J v. A Cand S Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993).
24 Further, under subparagraph (6), Plaintiff must show that there are extraordinary grounds
25 justifying relief; mere dissatisfaction with the court's order or belief that the court is wrong in its

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27 ¹ A motion to alter or amend a judgment must be made within twenty-eight (28) days of entry
28 of judgment. Fed. R. Civ. P. 59(e). Here, the Court's order was entered on November 2, 2010, and
the present motion was filed on May 11, 2011, well beyond the twenty-eight day period. As such,
the motion to reconsider is untimely under Rule 59(e) and should be considered under Rule 60(b).
Am. Ironworks & Erectors, Inc. v. N. Am. Contr. Corp., 248 F.3d 892, 898-99 (9th Cir. 2001).

1 decision are not adequate grounds for relief. *Twentieth Century -- Fox Film Corp. v. Dunnahoo*,
2 637 F.2d 1338, 1341 (9th Cir. 1981). Rule 60(b)(6) “is used sparingly as an equitable remedy to
3 prevent manifest injustice and is to be utilized only where extraordinary circumstances prevented a
4 party from taking timely action to prevent or correct an erroneous judgment.” *Latshaw v. Trainer*
5 *Wortham & Co., Inc.*, 452 F.3d 1097, 1103 (9th Cir. 2006).

6 On November 2, 2010, the Court dismissed the remaining defendant in this action, Lee M.
7 Quick, on the ground that Plaintiff failed to serve Defendant Quick within the time permitted by
8 Federal Rule of Civil Procedure 4(m). [Doc. No. 15.] Consequently, the case was terminated.²
9 [Doc. No. 16.] Plaintiff’s pending motion does not identify any ground that might entitle him to
10 relief from the final judgment entered on November 2, 2010. Plaintiff merely asserts that because
11 he suffers from Post Traumatic Stress Disorder (PTSD), the Court should allow him to prosecute
12 his case “as a reasonable accommodation for [his] PTSD disability.” [Doc. No. 20, ¶21.] Plaintiff,
13 however, provides no authority indicating the requested relief is appropriate or warranted.
14 Although the Court is sympathetic to the difficulties Plaintiff may suffer as a result of his PTSD,
15 based on the current record before the Court there are no grounds to alter, amend, or otherwise
16 reconsider the Court’s judgment in this case. Accordingly, given the procedural history of this
17 action, Plaintiff’s prior abandoned appeal, and Plaintiff’s failure to identify any legally cognizable
18 ground for reconsideration, the Court **DENIES** Plaintiff’s pending motion. Plaintiff is advised this
19 matter is closed and no further filings will be accepted.

20 **IT IS SO ORDERED.**

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22 DATED: May 12, 2011



23 Hon. Michael M. Anello
24 United States District Judge
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28 ² The Court previously granted two unopposed motions to dismiss by the other named
defendants for lack of personal jurisdiction and improper venue. [Doc. Nos. 6, 8.]