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U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: *js* DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

11 LUIS FRANCISCO BARRON, 12 13 v. 14 DANIEL PARAMO, 15 16	Plaintiff, Defendant.
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Case No.: 3:14-cv-01968-BEN-DHB

**ORDER DENYING MOTION TO
VACATE**

Petitioner Luis Francisco Barron ("Petitioner"), a state prisoner proceeding *pro se*, brought this Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 ("Petition"), challenging his state court conviction for first degree murder. (Docket No. 1.) On October 5, 2015, Honorable Magistrate Judge David H. Bartick issued a thoughtful and thorough Report and Recommendation ("Report") recommending the Petition be denied in its entirety. (Docket No. 23.) On January 12, 2016, this Court adopted the Report and denied the Petition in its entirety. (Docket No. 25.)

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1 Petitioner now seeks a Motion to Vacate the Court's January 12, 2016, Order.¹
2 For the reasons stated below, the Court **DENIES** the motion.

3 Petitioner asks this Court to vacate its previous order under Rule 60(b)(1) of the
4 Federal Rules of Civil Procedure. (Docket No. 34.) Under Rule 60(b)(1), a district court
5 may relieve a party from a final judgment, order, or proceeding for "mistake,
6 inadvertence, surprise, or excusable neglect." Fed. R. Civ. P. 60(b)(1). "These grounds
7 generally require a showing that events subsequent to the entry of the judgment make its
8 enforcement unfair or inappropriate, or that the party was deprived of a fair opportunity
9 to appear and be heard in connection with the underlying dispute." *In re Wylie*, 349 B.R.
10 204, 209 (B.A.P. 9th Cir. 2006). None of these grounds applies here; Petitioner presents
11 no newly discovered evidence to justify the vacating of the Court's order. In short,
12 Petitioner merely seeks for this Court to change its mind in Petitioner's favor.

13 Petitioner's Motion to Vacate (Docket No. 34) is therefore **DENIED**.

14 **IT IS SO ORDERED.**

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16 DATED: January 10, 2017

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18 HON. ROGER T. BENITEZ
19 United States District Judge
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26 ¹ In his Motion, Petitioner states a request for the Court to "vacate the Court's previous
27 order to close this case and dismiss the proceeding." (Docket No. 34.) The Court
28 assumes Petitioner is referring to its January 12, 2016, Order (Docket No. 25), denying
the Petition in its entirety, resulting in dismissal of his case.