

## IN THE UNITED STATES DISTRICT COURT

## FOR THE DISTRICT OF HAWAII

CHRIS GRINDLING, #A0721079,	)	CIVIL NO. 09-00243 ACK-BMK
	)	
Petitioner,	)	ORDER DENYING MOTION FOR
	)	RECONSIDERATION OR FORWARD
vs.	)	HABEAS CORPUS PETITION
	)	
FRANCIS SEQUEIRA, THE	)	
ATTORNEY GENERAL OF THE	)	
STATE OF HAWAII, TODD THOMAS,	)	
	)	
Respondents.	)	
	)	

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**ORDER DENYING MOTION FOR RECONSIDERATION**  
**OR FORWARD HABEAS CORPUS PETITION**

On June 1, 2009, pro se Petitioner Chris Grindling, a prisoner incarcerated at the Saguaro Correctional Center located in Eloy, Arizona, filed a habeas corpus petition pursuant to 28 U.S.C. § 2254. (Doc. No. 1.) On July 10, 2009, the Petition was dismissed for lack of jurisdiction because it is second or successive and this court lacks jurisdiction to consider it until the United States Court of Appeals for the Ninth Circuit has authorized its filing. (Doc. No. 7.) The court advised Petitioner that if he desired to proceed, he must file a motion for leave to proceed in the Court of Appeals for the Ninth Circuit, pursuant to 28 U.S.C. § 2244(b)(3)(A). (*Id.*)

On July 22, 2009, Petitioner filed a "Motion to Reconsider or Forward Habeas Corpus Petition," ("Motion") and a "Motion for Leave to File This Petition in US District Court" ("2d Motion") (Doc. Nos. 9 & 11.) The 2d Motion appeared to be

Petitioner's request to the United States Court of Appeals for the Ninth Circuit, to file a second or successive habeas petition. (See Doc. No. 11.) On July 27, 2009, the court forwarded the 2d Motion to the appellate court, including a copy of Petitioner's Amended Petition for Writ of Habeas Corpus. (Doc. No. 12.) For the following reasons, the Motion is DENIED.

#### **I. LEGAL STANDARD**

A motion for reconsideration may be filed under Federal Rule of Civil Procedure 59(e) if it was filed within ten days of the filing of the judgment. *Shapiro v. Paradise Valley Unified Sch. Dist.* No. 69, 374 F.3d 857, 863 (9th Cir. 2004). The court construes Petitioner's Motion as made pursuant to Rule 59(e) because, excluding weekends and the day of the entry of judgment, it was filed within the ten day time period set forth by Rule 59(e). See Fed. R. Civ. P. 6(a), 59(e).

A "motion for reconsideration must accomplish two goals. First, a motion for reconsideration must demonstrate reasons why the court should reconsider its prior decision. Second, a motion for reconsideration must set forth facts or law of a strongly convincing nature to induce the court to reverse its prior decision." *Donaldson v. Liberty Mut. Ins. Co.*, 947 F. Supp. 429, 430 (D. Haw. 1996); *Na Mamo O 'Aha 'Ino v. Galiher*, 60 F. Supp. 2d 1058, 1059 (D. Haw. 1999) (citation omitted).

Only three grounds justify reconsideration: (1) an intervening change in controlling law; (2) the discovery of new

evidence not previously available; and (3) the need to correct clear or manifest error in law or fact in order to prevent manifest injustice. See *Mustafa v. Clark County Sch. Dist.*, 157 F.3d 1169, 1178-79 (9th Cir. 1998). "Whether or not to grant reconsideration is committed to the sound discretion of the court." *Navajo Nation v. Confederated Tribes & Bands of the Yakima Indian Nation*, 331 F.3d 1041, 1046 (9th Cir. 2003) (citation omitted).

## **II. DISCUSSION**

Petitioner requests reconsideration of the Order Dismissing Petition, but fails to offer any argument or law justifying reconsideration. Petitioner presents no intervening change in controlling law, no newly discovered and previously unavailable evidence, and no argument supporting a need to correct clear or manifest error in law or fact. Petitioner's Motion to Reconsider or Forward Habeas Corpus Petition is therefore DENIED. Insofar as the Motion requests the court to forward his habeas petition to the Court of Appeals for the Ninth Circuit, the request is DENIED as moot.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, July 29, 2009.



*Alan C. Kay*  
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Alan C. Kay  
Sr. United States District Judge

Grindling v. Sequeira, et al.; Civ. No. 09-00243 ACK; ORDER DENYING MOTION FOR RECONSIDERATION OR FORWARD HABEAS CORPUS PETITION; prose attys\Recon\KAM\  
Grindling 09-243(Dny 59(e))