

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

In Re:	)	NO. 1:12-cv-00532 SOM/KSC
	)	
MICHAEL C. TIERNEY,	)	ORDER DENYING RECONSIDERATION
#A0201434,	)	
_____	)	

**ORDER DENYING RECONSIDERATION**

Plaintiff moves for reconsideration of the October 24, 2012, order denying reconsideration of the order dismissing his action. Plaintiff's Motion is DENIED.

Rule 60(b) permits reconsideration based on: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that by due diligence could not have been discovered in time to move for a new trial under Rule 59; (3) fraud, misrepresentation, or misconduct by an adverse party; (4) the voidness of a judgment; (5) the satisfaction, release, or discharge of a judgment, or the reversal or vacation of a prior judgment upon which a ruling is based, or inequities in applying a judgment prospectively; or (6) any other reason justifying relief from the operation of the judgment. See Fed. R. Civ. P. 60(b)(1)-(b)(6). Rule 60 reconsideration is generally appropriate in three instances: (1) when there has been an intervening change of controlling law; (2) new evidence has come to light; or (3) when necessary to correct a clear error or prevent manifest injustice. *School District No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir. 1993).

Plaintiff's action was dismissed without prejudice under 28 U.S.C. § 1915(g), because Plaintiff has accrued three strikes and did not allege imminent danger of serious physical injury at the time that he filed his complaint. See Dismissal Order, ECF #5. Plaintiff now argues that the court erred by stating that jurisdiction for his claims lies in Arizona rather than Hawaii. Plaintiff also claims that other inmates have been assaulted and murdered in Arizona.

Plaintiff fails to convince the court to reconsider the October 2, 2012, Dismissal Order or the October 24, 2012, Order Denying Motion for Reconsideration. See ECF #5, #15. Plaintiff's broad claims that other inmates have been harmed in Arizona are not specific enough to plausibly suggest that he is under a credible threat of imminent danger of serious physical injury. Nor does Plaintiff provide details of when he was denied emergency medical or dental care or who is personally responsible for this alleged denial. And, although dismissal was not based on improper venue, Plaintiff fails to persuade the court that venue for his vague claims lies in Hawaii. Plaintiff's new Motion Under Rule 60(b), seeking reconsideration of the October 24, 2012 Order Denying Motion For Reconsideration, is DENIED.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, November 8, 2012.



/s/ Susan Oki Mollway  
Susan Oki Mollway  
Chief United States District Judge

*In re: Michael C. Tierney*, 1:12-cv-00532 SOM/KSC; ORDER DENYING RECONSIDERATION;  
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