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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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11 EMMANUEL REEVES,
12 Plaintiff,

13 v.

14 JEFFREY LEWIS, et al.,
15 Defendants.
16

No. 2:22-CV-2084-TLN-DMC-P

FINDINGS AND RECOMMENDATIONS

17 Plaintiff, a prisoner proceeding pro se, brought this civil rights action pursuant to
18 42 U.S.C. § 1983. Final judgment was entered on August 23, 2024. Pending before the Court in
19 this closed case is Plaintiff's motion for reconsideration, filed on October 31, 2025. See ECF No.
20 24.

21 On May 24, 2024, the Court determined Plaintiff's first amended complaint was
22 appropriate for service and directed Plaintiff to submit to the Court within 30 days the documents
23 necessary for service by the United States Marshal. See ECF No. 18. The order was served on
24 Plaintiff at his address of record at the time – 400 Bannon Street in Sacramento, California. As of
25 July 10, 2024, Plaintiff had not complied, and the Court issued findings and recommendations
26 that this action be dismissed without prejudice for lack of prosecution. See ECF No. 19. The
27 findings and recommendations were also served on Plaintiff at his address of record at 400
28 Bannon Street. Plaintiff did not file any objections to the July 10, 2024, findings and

1 recommendations. On August 23, 2024, the findings and recommendations were adopted in full
2 by the assigned District Judge and final judgment was entered. See ECF Nos. 20 and 21.

3 On October 14, 2025 – over a year after judgment was entered – Plaintiff filed a
4 request for status and notice of change of address to the Sacramento County Main Jail. See ECF
5 No. 22. The Clerk of the Court responded on October 29, 2025, by providing Plaintiff a courtesy
6 copy of the docket showing that the matter had been closed in August 2024. See ECF No. 29.
7 Plaintiff filed the pending motion for reconsideration on October 29, 2025. See ECF No. 24.

8 The Court may grant reconsideration under Federal Rules of Civil Procedure
9 59(e) and 60. Generally, a motion for reconsideration of a final judgment is appropriately
10 brought under Federal Rule of Civil Procedure 59(e). See Backlund v. Barnhart, 778 F.2d
11 1386, 1388 (9th Cir. 1985) (discussing reconsideration of summary judgment); see also
12 Schroeder v. McDonald, 55 F.3d 454, 458-59 (9th Cir. 1995). The motion must be filed no
13 later than twenty-eight (28) days after entry of the judgment. See Fed. R. Civ. P. 59(e). Under
14 Rule 59(e), three grounds may justify reconsideration: (1) an intervening change in controlling
15 law; (2) the availability of new evidence; or (3) the need to correct clear error or prevent
16 manifest injustice. See Kern-Tulare Water Dist. v. City of Bakersfield, 634 F. Supp. 656, 665
17 (E.D. Cal. 1986), rev'd in part on other grounds, 828 F.2d 514 (9th Cir. 1987), cert. denied,
18 486 U.S. 1015 (1988); see also 389 Orange Street Partners v. Arnold, 179 F.3d 656, 665 (9th
19 Cir. 1999); accord School Dist. No. 1J v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993).

20 Under Rule 60(a), the Court may grant reconsideration of final judgments and any
21 order based on clerical mistakes. Relief under this rule can be granted on the Court's own
22 motion and at any time. See Fed. R. Civ. P. 60(a). However, once an appeal has been filed and
23 docketed, leave of the appellate court is required to correct clerical mistakes while the appeal is
24 pending. See id.

25 Under Rule 60(b), the Court may grant reconsideration of a final judgment and
26 any order based on: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly
27 discovered evidence which, with reasonable diligence, could not have been discovered within ten
28 days of entry of judgment; and (3) fraud, misrepresentation, or misconduct of an opposing party.

1 See Fed. R. Civ. P. 60(b)(1)-(3). A motion for reconsideration on any of these grounds must be
2 brought within one year of entry of judgment or the order being challenged. See Fed. R. Civ. P.
3 60(c)(1). Under Rule 60(b), the Court may also grant reconsideration if: (1) the judgment is
4 void; (2) the judgement has been satisfied, released, or discharged, an earlier judgment has been
5 reversed or vacated, or applying the judgment prospectively is no longer equitable; and (3) any
6 other reason that justifies relief. See Fed. R. Civ. P. 60(b)(4)-(6). A motion for reconsideration
7 on any of these grounds must be brought “within a reasonable time.” Fed. R. Civ. P. 60(c)(1).

8 Here, Plaintiff does not specify under which rule he seeks reconsideration.
9 Rather, Plaintiff states that he never received the Court’s order directing submission of service
10 documents and asks that he be provided another opportunity to comply. See ECF No. 24. The
11 Court finds that Plaintiff’s motion is untimely under Rule 59(e) because it was not filed within
12 28 days after entry of final judgment in August 2024. The Court also finds that the motion is
13 untimely under Rule 60(b)(1)-(3) because it was not filed within one year of entry of final
14 Judgment in August 2024. The motion is also untimely under Rule 60(b)(4)-(6) because it was
15 filed 14 months after entry of judgment, which the Court finds was not within a “reasonable
16 time” after the August 2024 judgment.

17 Finally, relief under Rule 60(a) is not warranted because Plaintiff does not
18 identify any clerical mistake. Specifically, as outlined above, notwithstanding Plaintiff’s
19 assertion that he never received the Court’s order directing submission of service documents, the
20 Court’s docket reflects that the order to submit documents, as well as the Court’s findings and
21 recommendations, were served on Plaintiff’s record at the time. Mail served on Plaintiff’s
22 address of record was not returned and Plaintiff did not change his address until after judgment
23 was entered.

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1 Based on the foregoing, the undersigned recommends that Plaintiff's motion for
2 reconsideration, ECF No. 24, be DENIED.

3 These findings and recommendations are submitted to the United States District
4 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days
5 after being served with these findings and recommendations, any party may file written objections
6 with the Court. Responses to objections shall be filed within 14 days after service of objections.
7 Failure to file objections within the specified time may waive the right to appeal. See Martinez v.
8 Ylst, 951 F.2d 1153 (9th Cir. 1991).

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10 Dated: January 30, 2026



11 DENNIS M. COTA
12 UNITED STATES MAGISTRATE JUDGE
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