

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA**

Nii Nee v. California State, et al.

Nii Nee · No. No. 2:24-CV-3185-DC-DMC · Decided December 12, 2025

OPINION

1 2 3 4 5 6 7 8 IN THE UNITED STATES DISTRICT COURT 9 FOR THE EASTERN
DISTRICT OF CALIFORNIA 10 11 NII NEE, No. 2:24-CV-3185-DC-DMC 12 Plaintiff, 13 v.
FINDINGS AND RECOMMENDATIONS 14 CALIFORNIA STATE, et al., 15 Defendants. 16
17 Plaintiff, who is proceeding pro se, brings this civil action. Pending before the 18 Court is
Plaintiff’s motion to reopen case, ECF No. 22.

19 20 I. BACKGROUND 21 On April 24, 2025, this Court dismissed Plaintiff’s complaint,
finding the claims 22 presented in Plaintiff’s complaint were frivolous and Plaintiff provided very
little factual 23 information underlying his claims. See ECF No. 13. Out of an abundance of
caution and because 24 the state court transcript Plaintiff provided indicated that he may have
actionable claims, though 25 such claims were not raised in the complaint, the Court granted
Plaintiff leave to file an amended 26 complaint.

See id. Plaintiff filed what the Court construed as a first amended complaint, ECF No. 27 14, but
this Court issued findings and recommendations recommending dismissal of the action for 28
failure to state a cognizable claim because the first amended complaint made the same broad 1
assertion that Defendants violated the Two Row Wampum Treaty without providing facts to 2
support this allegation.

See ECF No. 15. The District Judge adopted the findings and 3 recommendations in full and
dismissed the action with prejudice for failure to state a claim upon 4 which relief can be granted.
See ECF No. 18. 5 Plaintiff subsequently filed “exhibits,” ECF Nos. 22, 25, and 26, a motion to 6
reopen the case, ECF No. 22, and a notice of proof of service of writ of habeas corpus filed in 7
Navajo County, ECF No. 24.

The District Judge referred the motion to reopen the case to the 8 undersigned, pursuant to 28
U.S.C. § 636(b)(1)(B) and Local Rule 302(a). See ECF No. 23. 9 In the motion to reopen the case,
Plaintiff contends that he never received the 10 findings and recommendations issued on July 2,
2025, ECF No. 15. See ECF No. 22 at 1. 11 Plaintiff contends that the exhibits he filed September
22, 2025, ECF No. 21, explained why 12 Plaintiff failed to respond to the findings and
recommendations.

See id. Plaintiff asserts that he 13 was “arrested, kidnapped, detained, and obstructed in [Plaintiff’s] full diplomatic status... 14 violat[ing] [Plaintiff’s] diplomatic immunity” at the Navajo County Sheriff’s Jail in Arizona. See 15 id. Plaintiff alleges that he was unable to respond because he was detained from July 28, 2025, 16 until August 14, 2025. See id. at 2.

According to Plaintiff, he filed a writ of habeas corpus, 17 challenging his detention in Arizona because “it is the law of the land Article 6 section 2 and the 18 ‘Supremacy Clause’, pursuant to thee [sic] ‘Two Row Wampum Treaty Belt’ that [Plaintiff] 19 carr[ies]..” Id. 20 Attached to the motion is a document that appears to be a record of Plaintiff’s 21 habeas petition filed in Arizona Supreme Court, pg.

3, a “writ of mandate” drafted by Plaintiff, 22 pgs. 5-13, Plaintiff’s habeas petition filed in the Superior Court of Arizona, pgs. 15-21, a 23 Determination of Release and Order, pgs. 22-23, a default judgment arising from a civil traffic 24 complaint, pg. 24, a “fugitive complaint,” pg. 26, a Superior Court of California for Siskiyou 25 Count warrant for failure to appear, pg.

27, a Siskiyou County Jail Transportation Unit fax to 26 Navajo County Jail, pg. 28, New York documents, pgs. 29-30, an “irrevocable covenant power of 27 attorney in fact,” pgs. 31-34, Arizona Corporation Commission documents, pgs. 35-39, California 28 records regarding limited liability corporations, pgs. 40-48, New York court documents filed by 1 Plaintiff, pgs.

49-52, a record of dismissal of charges against Plaintiff in New York, pg. 53, court 2 documents filed by Plaintiff in New York, pg. 55, and a affidavit in support of a motion to 3 proceed in forma pauperis, pgs. 56-60. See id. 4 In Plaintiff’s September 22, 2025, filing, Plaintiff asserts that “enclosed are 5 evidence/documents of OBSTRUCTION OF A DIPLOMAT, while I Ni’I’ Ne’e’ went on Travel 6 to Clanmother/Headman I was KIDNAPPED...” ECF No. 21, pg.

1. Plaintiff asserts that he 7 attached the writ of habeas corpus he filed, his international passport, and an irrevocable covenant 8 power of attorney. See id. The documents attached include a “counter complaint,” filed by 9 Plaintiff in Arizona, pgs. 2-7, and the same documents attached to Plaintiff’s motion to reopen 10 case, pgs. 8-47. Plaintiff did not attach the affidavit in support of a motion to proceed in forma 11 pauperis that he included in ECF No. 22 to this filing.

See ECF No. 21. 12 In Plaintiff’s “notice of proof of service of writ of habeas filed in Navajo County,” 13 Plaintiff provides receipts from U.S. Postal Service showing mail sent to Sacramento and a “proof 14 of service” drafted by Plaintiff regarding a writ of habeas corpus Plaintiff filed in Siskiyou 15 County Superior Court. See ECF No. 24.

In Plaintiff’s exhibits filing ECF No. 25, Plaintiff 16 provides 35 pages of what appears to be court documents and filings Plaintiff made in Albany, 17 New York. See ECF No. 25. In Plaintiff’s exhibits filing ECF No. 26, Plaintiff provides 18 documents he filed in Siskiyou

County, pgs. 3-15, and 100 pages of court documents filed in 19 California, Arizona, and New York, most of which were provided in Plaintiff's prior filings.

20 21 II. LEGAL STANDARD 22 The Court may grant reconsideration under Federal Rules of Civil Procedure 23 59(e) and 60. Generally, a motion for reconsideration of a final judgment is appropriately 24 brought under Federal Rule of Civil Procedure 59(e). See *Backlund v. Barnhart*, 778 F.2d 25 1386, 1388 (9th Cir. 1985) (discussing reconsideration of summary judgment); see also 26 *Schroeder v. McDonald*, 55 F.3d 454, 458-59 (9th Cir.

1995). The motion must be filed no 27 later than twenty-eight (28) days after entry of the judgment. See Fed. R. Civ. P. 59(e). Under 28 Rule 59(e), three grounds may justify reconsideration: (1) an intervening change in controlling 1 law; (2) the availability of new evidence; or (3) the need to correct clear error or prevent 2 manifest injustice. See *Kern-Tulare Water Dist. v. City of Bakersfield*, 634 F. Supp. 656, 665 3 (E.D.

Cal. 1986), rev'd in part on other grounds, 828 F.2d 514 (9th Cir. 1987), cert. denied, 4 486 U.S. 1015 (1988); see also 389 *Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th 5 Cir. 1999); accord *School Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993). 6 Under Rule 60(a), the Court may grant reconsideration of final judgments and any 7 order based on clerical mistakes.

Relief under this rule can be granted on the Court's own 8 motion and at any time. See Fed. R. Civ. P. 60(a). However, once an appeal has been filed and 9 docketed, leave of the appellate court is required to correct clerical mistakes while the appeal is 10 pending. See *id.* 11 Under Rule 60(b), the Court may grant reconsideration of a final judgment and 12 any order based on: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly 13 discovered evidence which, with reasonable diligence, could not have been discovered within ten 14 days of entry of judgment; and (3) fraud, misrepresentation, or misconduct of an opposing party.

15 See Fed. R. Civ. P. 60(b)(1)-(3). A motion for reconsideration on any of these grounds must be 16 brought within one year of entry of judgment or the order being challenged. See Fed. R. Civ. P. 17 60(c)(1). Under Rule 60(b), the Court may also grant reconsideration if: (1) the judgment is 18 void; (2) the judgement has been satisfied, released, or discharged, an earlier judgment has been 19 reversed or vacated, or applying the judgment prospectively is no longer equitable; and (3) any 20 other reason that justifies relief.

See Fed. R. Civ. P. 60(b)(4)-(6). A motion for reconsideration 21 on any of these grounds must be brought "within a reasonable time." Fed. R. Civ. P. 60(c)(1). 22 23 III. DISCUSSION 24 As a preliminary matter, it is unclear how, and whether, the documents attached to 25 Plaintiff's motion to reopen the case apply to the present action. Many of the documents are dated 26 years before Plaintiff initiated this action and are filings in states other than California.

The only 27 documents that may have bearing on this case, Plaintiff's affidavit in support of a motion to 28 proceed in forma pauperis, is inapplicable because this Court already granted Plaintiff's motion to 1 proceed in forma pauperis, ECF No. 4. 2 As to the delivery of docking filings and dismissal of this action, this Court's 3 findings and recommendations issued on July 2, 2025, ECF No. 15, were returned as 4 undeliverable on August 12, 2025, and August 19, 2025.

Plaintiff filed a notice of change of 5 address August 25, 2025, ECF No. 17, and the July 2, 2025, findings and recommendations were 6 re-served to that address. The District Judge adopted the findings and recommendations over 14- 7 days after the findings and recommendations were re-served to the address Plaintiff provided 8 then. See ECF No. 18. That is the same address that Plaintiff provides in his motion to reopen the 9 case.

Service of the findings and recommendations was effectuated August 26, 2025, to that 10 address. 11 Though Plaintiff asserts that he was unable to respond to the findings and 12 recommendations because he was incarcerated in Arizona from July 28, 2025 until August 14, 13 2025, as noted above, service of the findings and recommendations was effectuated August 26, 14 2025, after Plaintiff alleges he was released.

Though Plaintiff contends he has received no legal 15 mail to the address he provided, all filings were sent to that address, and service was effectuated 16 upon mailing. The Court notes that Plaintiff's action was not dismissed for for lack of prosecution 17 and failure to comply with court rules and orders, but rather, because Plaintiff's first amended 18 complaint failed to state a cognizable claim and the claims presented were frivolous.

See ECF 19 Nos. 15 and 18. Plaintiff's recent filings make the same broad allegation about the Two Row 20 Wampum Treaty, without providing facts to underly the claim, and almost entirely consist of 21 irrelevant court documents from other states, years before Plaintiff initiated this action.

Thus, 22 such filings do not demonstrate that Plaintiff can remedy such deficiencies. 23 Plaintiff's motion does not meet the standard required for reconsideration pursuant 24 to Federal Rules of Civil Procedure 59(e) and 60. Plaintiff alleges no clerical mistake, provides no 25 newly discovered evidence, nor asserts any fraud or misrepresentation by an opposing party.

26 Plaintiff may be intending to bring such motion to allege excusable neglect, however, as 27 explained above, this action was not dismissed for for lack of prosecution and failure to comply 28 with court rules and orders. And, Plaintiff's contention that he was unable to reply due to 1 | incarceration is insufficient because Plaintiff asserts he was released before the findings and 2 || recommendations were re-served to Plaintiff's address.

3 Based on the foregoing, the undersigned recommends Plaintiff's motion to reopen 4 || the case, ECF No. 22, be denied. 5 These findings and recommendations are submitted to the United States

District 6 || Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within 14 days 7 || after being served with these findings and recommendations, any party may file written 8 || objections with the court.

Responses to objections shall be filed within 14 days after service of 9 || objections. Failure to file objections within the specified time may waive the right to appeal. See 10 | Martinez v. Yist, 951 F.2d 1153 (9th Cir. 1991). 1] 12 | Dated: December 12, 2025 Ss..c0_, 13 DENNIS M. COTA 14 UNITED STATES MAGISTRATE JUDGE 15 16 17 18 19 20 21 22 23 24 25 26 27 28