

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF  
CALIFORNIA

Rollen v. Hicks

Rollen · No. No. 2:24-cv-01303-TLN-AC · Decided May 30, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Plaintiff Van Keyshone Rollen’s motion for reconsideration of the dismissal of his First Amended Complaint. The court treated the motion under Federal Rule of Civil Procedure 59(e) and concluded that Plaintiff had not shown newly discovered evidence, clear error, an intervening change in controlling law, or grounds warranting reconsideration under the local rules. The case remained closed.

CASE DETAILS

|                       |                                                                                                                                                                                                       |
|-----------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COURT                 | United States District Court for the Eastern District of California                                                                                                                                   |
| WRITING FOR THE COURT | Troy L. Nunley                                                                                                                                                                                        |
| JURISDICTION          | United States District Court for the Eastern District of California                                                                                                                                   |
| DECIDED               | May 30, 2025                                                                                                                                                                                          |
| DOCKET                | No. 2:24-cv-01303-TLN-AC                                                                                                                                                                              |
| DISPOSITION           | other                                                                                                                                                                                                 |
| PROCEDURAL POSTURE    | Plaintiff moved for reconsideration under Federal Rule of Civil Procedure 59(e) of the court's order dismissing his First Amended Complaint without further leave to amend.                           |
| STANDARD OF REVIEW    | A Rule 59(e) motion should not be granted absent highly unusual circumstances unless the court is presented with newly discovered evidence, clear error, or an intervening change in controlling law. |
| PRECEDENTIAL VALUE    | Unpublished district court order; generally nonprecedential.                                                                                                                                          |

TOPICS

- motion for reconsideration
- civil procedure
- pleadings
- remedies

PRACTICE AREAS

- Federal civil procedure
- Prisoner civil rights litigation
- Post-judgment remedies

## QUESTIONS PRESENTED

1. Whether Plaintiff's motion for reconsideration was governed by Federal Rule of Civil Procedure 59(e) or Rule 60(b).
2. Whether Plaintiff demonstrated newly discovered evidence, clear error, an intervening change in controlling law, or other grounds warranting reconsideration under Rule 59(e).

## HOLDINGS

1. A motion for reconsideration filed within twenty-eight days after entry of judgment is treated as a motion to alter or amend the judgment under Federal Rule of Civil Procedure 59(e), rather than a Rule 60(b) motion.
2. Reconsideration was unwarranted because Plaintiff did not establish newly discovered evidence, clear error, an intervening change in controlling law, or facts demonstrating that he could cure the defects in his First Amended Complaint.

## KEY QUOTATIONS

*“Under Rule 59(e), a motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law.”* (at 1)

*“Accordingly, IT IS HEREBY ORDERED that Plaintiffs motion for reconsideration (ECF No. 30) is DENIED and this case remains closed.”* (at 2)

## FACTUAL BACKGROUND

Plaintiff's First Amended Complaint had been dismissed without further leave to amend after the magistrate judge issued findings and recommendations and Plaintiff failed to submit timely objections. Plaintiff sought reconsideration, asserting that he had been in restrictive housing without access to the courts and that he wanted an opportunity to amend the complaint to correct its defects. The record showed that Plaintiff was moved to restricted housing only four days before the extended deadline for objections expired, and he did not explain how that placement prevented him from filing objections or provide proposed objections.

## PROCEDURAL HISTORY

A magistrate judge recommended dismissal of the First Amended Complaint without further leave to amend. After Plaintiff failed to file timely objections, the district court adopted the findings and recommendations, dismissed the action, closed the case, and entered judgment on April 18, 2025. Plaintiff then filed a motion for reconsideration, which the court denied.

## DISPOSITION

other

## CASES CITED

- Fuller v. M.G. Jewelry, 950 F.2d 1437, 1442 (9th Cir. 1991)
- Taylor v. Knapp, 871 F.2d 803, 805 (9th Cir. 1989)
- Am. Ironworks & Erectors, Inc. v. N. Am. Constr. Corp., 248 F.3d 892, 898-99 (9th Cir. 2001)
- 389 Orange St. Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999)
- Houston v. Lack, 487 U.S. 266, 276 (1988)

## OPINION

1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 EASTERN DISTRICT OF  
CALIFORNIA 10 11 VAN KEYSHONE ROLLEN, No. 2:24-cv-01303-TLN-AC 12 Plaintiff, 13  
v. ORDER 14 A. HICKS, 15 Defendant. 16 17 Plaintiff Van Keyshone Rollen (“Plaintiff”) filed  
the above-entitled action.

The matter 18 was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)  
(B) and Local 19 Rule 302. 20 By findings and recommendations filed January 3, 2025, the  
magistrate judge 21 recommended that the First Amended Complaint be dismissed without further  
leave to amend and 22 gave Plaintiff twenty-one days to file objections. (ECF No. 25.)

The deadline to file objections 23 was later extended at Plaintiff’s request (ECF Nos. 26, 27), but  
Plaintiff failed to file timely 24 objections. The findings and recommendations were adopted in  
full by this Court on April 18, 25 2025. (ECF No. 28.) Pursuant to the Court’s April 18, 2025  
Order, this action was dismissed, the 26 case was closed, and judgment was entered the same day.

(ECF Nos. 28, 29.) On May 14, 2025, 27 28 1 Plaintiff filed the instant motion for  
reconsideration.<sup>1</sup> (ECF No. 25.) 2 A motion for reconsideration or relief from a judgment is  
appropriately brought under 3 either Rule 59(e) or Rule 60(b) of the Federal Rules of Civil  
Procedure. Fuller v. M.G. Jewelry, 4 950 F.2d 1437, 1442 (9th Cir. 1991) (citing Taylor v. Knapp,  
871 F.2d 803, 805 (9th Cir.

1989)). 5 The motion “is treated as a motion to alter or amend judgment under Federal Rule of  
Civil 6 Procedure 59(e) if it is filed [within the time provided by that Rule].” Am. Ironworks &  
Erectors, 7 Inc. v. N. Am. Constr. Corp., 248 F.3d 892, 898–99 (9th Cir. 2001) (citations omitted).  
8 “Otherwise, it is treated as a Rule 60(b) motion for relief from a judgment or order.” Id. Since 9  
Plaintiff’s motion for reconsideration was filed within twenty-eight days of the entry of judgment,  
10 the motion is considered under Rule 59(e).

11 “Under Rule 59(e), a motion for reconsideration should not be granted, absent highly 12  
unusual circumstances, unless the district court is presented with newly discovered evidence, 13  
committed clear error, or if there is an intervening change in the controlling law.” 389 Orange St.  
14 Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999) (citation omitted).

Further, Local Rule 15 230(j) requires that a motion for reconsideration state “what new or different facts or 16 circumstances are claimed to exist which did not exist or were not shown upon such prior motion, 17 or what other grounds exist for the motion; and... why the facts or circumstances were not 18 shown at the time of the prior motion.” E.D. Cal. L.R.

230(j)(3)-(4). 19 Plaintiff seeks reconsideration of the Court’s April 18, 2025 Order dismissing the First 20 Amended Complaint without leave to amend on the grounds that he was “in the hole without 21 access to the courts” and that he would like to amend the complaint to fix the defects. (ECF No. 22 30.)

However, Plaintiff fails to demonstrate that he would be capable of fixing the defects in the 23 First Amended Complaint such that reconsideration would be warranted. Moreover, the attached 24 documentation shows that Plaintiff was not placed into restrictive housing until four days before 25 the deadline to file objections to the findings and recommendations expired.

(See ECF No. 27 26 (extending deadline to file objections to March 24, 2025); ECF No. 30 at 3 (Plaintiff was moved 27 1 Since Plaintiff is a prisoner proceeding pro se, he is afforded the benefit of the prison 28 mailbox rule. *Houston v. Lack*, 487 U.S. 266, 276 (1988). 1 | to restricted housing March 20, 2025)). Plaintiff does not offer any elaboration on how he was 2 | denied access to the courts while in restricted housing, nor does he attach a copy of any 3 | objections he may have been working on or otherwise demonstrate that he would have been 4 | prepared to file objections by the deadline but for his placement in restricted housing.

5 Accordingly, IT IS HEREBY ORDERED that Plaintiffs motion for reconsideration (ECF 6 | No. 30) is DENIED and this case remains closed. 7 IT IS SO ORDERED. 8 | Date: May 29, 2025 10 TROY L. NUNLEY CHIEF UNITED STATES DISTRICT JUDGE 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28