

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

Murray v. United States

Murray v. United States · No. 3:25-cv-00512-JES; 3:23-cr-759-JES · Decided April 1, 2025

SUMMARY

The United States District Court for the Southern District of California denied Calvin Valentine Murray’s motion for reconsideration of the court’s prior denial of his 28 U.S.C. § 2255 motion. The court held that the motion was untimely under the applicable 28-day deadline and identified no new facts, newly discovered evidence, clear error, or intervening change in law.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	James E. Simmons, Jr.
JURISDICTION	United States District Court for the Southern District of California
DECIDED	April 1, 2025
DOCKET	3:25-cv-00512-JES; 3:23-cr-759-JES
DISPOSITION	other
PROCEDURAL POSTURE	Petitioner moved for reconsideration of the denial of his 28 U.S.C. § 2255 motion to vacate, set aside, or correct his sentence.
STANDARD OF REVIEW	A motion for reconsideration under S.D. Cal. CivLR 7.1(i) requires the movant to identify new or different facts and circumstances not previously presented. A Rule 59(e) motion may be granted only upon newly discovered evidence, clear error, or an intervening change in controlling law.
PRECEDENTIAL VALUE	Unknown; district court order with no reported citation
PARTIES	Calvin Valentine Murray v. United States of America

TOPICS

- post-conviction relief
- motion for reconsideration
- ineffective assistance
- sentencing
- habeas corpus

PRACTICE AREAS

- Federal post-conviction relief
- Criminal procedure
- Motions for reconsideration

QUESTIONS PRESENTED

1. Whether Murray's renewed § 2255 motion should be construed as a motion for reconsideration.
2. Whether reconsideration was warranted under Southern District of California Civil Local Rule 7.1(i) or Federal Rule of Civil Procedure 59(e).

HOLDINGS

1. A pro se filing arguing that the court's prior order was incorrect may be construed as a motion for reconsideration of that order.
2. Reconsideration was not warranted because Murray filed outside the twenty-eight-day period and failed to identify new or different facts, newly discovered evidence, clear error, or an intervening change in law.

FACTUAL BACKGROUND

Murray sought collateral relief from his sentence under 28 U.S.C. § 2255, alleging ineffective assistance by attorney Gerardo Gonzalez. After the court denied his initial motion, Murray filed a renewed motion asserting the same grounds and arguing that the prior order was incorrect. The renewed motion was filed more than twenty-eight days after the January 31, 2025 order and did not identify new facts, newly discovered evidence, clear error, or an intervening change in law.

PROCEDURAL HISTORY

Murray filed an initial § 2255 motion alleging ineffective assistance of counsel. The court denied that motion on January 31, 2025. Murray then filed a renewed § 2255 motion, which the court construed as a motion for reconsideration; the court denied reconsideration because the motion was untimely and identified no qualifying basis for relief.

DISPOSITION

other

CASES CITED

- *Bernhardt v. Los Angeles County*, 339 F.3d 920, 925 (9th Cir. 2003)
- *Am. Ironworks & Erectors, Inc. v. N. Am. Constr. Corp.*, 248 F.3d 892, 898-99 (9th Cir. 2001)
- *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir. 2000)
- *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011)
- *Reeder v. Knapik*, No. 07-CV-362-L(LSP), 2007 WL 2088402, at *2 (S.D. Cal. July 18, 2007)
- *Campion v. Old Republic Home Protection Co., Inc.*, No. 09-CV-748-JMA(NLS), 2011 WL 1935967, at *2 (S.D. Cal. May 20, 2011)