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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

ANTONIO FAHIE,

Plaintiff,

v.

MERCY HOSPITAL, et al.,

Defendants.

CASE NO. 1:09-CV-01024-LJO-DLB PC

ORDER DENYING MOTION FOR RELIEF
FROM FINAL JUDGMENT

(DOC. 30)

Plaintiff Antonio Fahie (“Plaintiff”) is a California state prisoner, proceeding pro se in this civil rights action. On December 3, 2010, the magistrate judge assigned to this action issued a Findings and Recommendations (“F&R”) recommending dismissal of this action for failure to state a claim. On February 2, 2011, the undersigned adopted the Findings and Recommendations in full, and issued judgment accordingly. Pending before the Court is Plaintiff’s motion for relief from judgment, filed February 25, 2011. Doc. 30.

A court may relieve a party from a final judgment or order for, *inter alia*, mistake, inadvertence, surprise, or excusable neglect. Fed. R. Civ. P. 60(b)(1). Motions to reconsider are committed to the discretion of the trial court. *Rodgers v. Watt*, 722 F.2d 456, 460 (9th Cir. 1983) (en banc); *Combs v. Nick Garin Trucking*, 825 F.2d 437, 441 (D.C. Cir. 1987). A party seeking reconsideration must set forth facts or law of a strongly convincing nature to induce the court to reverse a prior decision. *See, e.g., Kern-Tulare Water Dist. v. City of Bakersfield*, 634 F. Supp. 656, 665 (E.D. Cal. 1986), *aff’d in part and rev’d in part on other grounds*, 828 F.2d 514 (9th Cir. 1987). This Court’s Local Rule 230(j) requires a party seeking reconsideration to

1 demonstrate “what new or different facts or circumstances are claimed to exist which did not
2 exist or were not shown upon such prior motion, or what other grounds exist for the motion.”

3 Plaintiff contends that he was ignorant of the law regarding his claim. Plaintiff argues
4 that he was unaware that a claim which amounted at most to negligence failed to state a claim
5 under 42 U.S.C. § 1983. Plaintiff requests that the Court dismiss this action pursuant to
6 Plaintiff’s notice of voluntary dismissal in order for Plaintiff to avoid accruing a strike under 28
7 U.S.C. § 1915(g).

8 Plaintiff provides no good cause that merits relief from judgment in this action. The
9 Court screened Plaintiff’s complaints three times, each time informing Plaintiff that a claim for
10 negligence fails to state a claim under § 1983. *See* Order, filed Oct. 28, 2009, Doc. 7; F&R, filed
11 May 19, 2010, Doc. 11; Order Adopting F&R, filed June 21, 2010, Doc. 18; F&R, filed Dec. 3,
12 2010, Doc. 26; Order Adopting F&R, filed Feb. 2, 2011, Doc. 28. Dismissal for failure to state a
13 claim was proper.

14 Accordingly, it is HEREBY ORDERED that Plaintiff’s motion for relief from final
15 judgment, filed February 25, 2011 is DENIED.

16 IT IS SO ORDERED.

17 **Dated: July 22, 2011**

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE