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

5 **SEAVON PIERCE,**

6 **Plaintiff,**

7 **v.**

8 **THE U.S. GOVERNMENT AND ITS**
9 **OFFICERS AS FEDERAL JUDGES, et al.,**

10 **Defendants.**

1:16-cv-1361-LJO-BAM

MEMORANDUM DECISION AND
ORDER RE PLAINTIFF'S
SUCCESSIVE MOTION FOR
RECONSIDERATION (Doc. 7)

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12 The Court recently denied Plaintiff Seavon Pierce's motion to proceed in forma pauperis and
13 dismissed this case subject to re-filing accompanied by the \$400.00 filing fee. Doc. 3. Plaintiff filed a
14 motion for reconsideration, Doc. 5, which was subsequently denied. Doc. 6. Plaintiff has since filed a
15 document entitled "objections" to the order denying the motion for reconsideration, Doc. 7, which the
16 Court treats as a successive motion for reconsideration.

17 Although this Court's previous order denying the motion for reconsideration applied Federal
18 Rule of Civil Procedure 60 to the motion, a review of the case reveals that because Plaintiff's motion
19 was filed within 28 days of entry of judgment, application of Federal Rule of Civil Procedure 59 is more
20 appropriate, although the result is the same.

21 "Although the Federal Rules of Civil Procedure do not specifically allow for a motion for
22 reconsideration, the court treats a motion for reconsideration filed within [28] days of the entry of
23 judgment as one to alter or amend the judgment under [R]ule 59(e)." *Sierra Club v. Tri-State*
24 *Generation & Transmission Ass'n, Inc.*, 173 F.R.D. 275, 287 (D. Colo. 1997). There are four basic
25 grounds upon which the courts have granted a motion for reconsideration under Rule 59(e): "(1) if such

1 motion is necessary to correct manifest errors of law or fact upon which the judgment rests; (2) if such
2 motion is necessary to present newly discovered or previously unavailable evidence; (3) if such motion
3 is necessary to prevent manifest injustice; or (4) if the amendment is justified by an intervening change
4 in controlling law.” *Allstate Insurance Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011).
5 Reconsideration under Rule 59(e) is “an extraordinary remedy, to be used sparingly in the interest of
6 finality and conservation of judicial resources.” *Kona Enterprises, Inc. v. Estate of Bishop*, 220 F.3d
7 877, 890 (9th Cir. 2000). In seeking reconsideration of an order, Local Rule 230(j) requires Plaintiff to
8 show “what new or different facts or circumstances are claimed to exist or were not shown upon such
9 prior motion, or what other grounds exist for the motion.”

10 Neither Plaintiff’s original motion for reconsideration nor his subsequent objection provides any
11 ground for reconsideration. Plaintiff is a three-striker who is not entitled to proceed in forma pauperis
12 unless he alleges he is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g). The
13 Order of Dismissal, Doc. 3, correctly concluded that Plaintiff has not alleged imminent danger and
14 Plaintiff has not provided any authority or argument to suggest otherwise. Plaintiff has again made no
15 showing that would justify reconsideration of the Court’s order. No further motions for reconsideration
16 will be considered.

17 IT IS SO ORDERED.

18 Dated: October 20, 2016

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