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IN THE UNITED STATES DISTRICT COURT

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FOR THE DISTRICT OF ARIZONA

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12 Allan Kenneth Morgal, )

13 Plaintiff, )

No. CIV 07-0670-PHX-RCB

14 vs. )

O R D E R

15 Maricopa County Board of )

16 Supervisors, )

17 Defendant. )

18 Currently pending before the court is plaintiff *pro se*  
19 Allan Kenneth Morgal's "Motion to Reconsider Ruling on  
20 6/5/2012[,]" entered on June 6, 2012. Mot. (Doc. 156) at 1.  
21 For the reasons set forth below, because plaintiff Morgal has  
22 not met the standards for reconsideration in accordance with  
23 LRCiv 7.2(g), the court denies his motion.

24 **Discussion**

25 "Motions for reconsideration are disfavored and should be  
26 granted only in rare circumstances." U.S. v. Vistoso  
27 Partners, LLC, 2011 WL 2550387, at \*1 (D.Ariz. June 27, 2011  
28 (citation omitted). Consistent with that view, LRCiv

1 7.2(g)(1) unequivocally states, in part:

2           The Court will *ordinarily deny* a motion for  
3           reconsideration of an Order *absent a showing*  
4           *of manifest error or a showing of new facts*  
5           *or legal authority* that could not have been  
6           brought to its attention earlier with  
7           reasonable diligence.

8 LRCiv 7.2(g)(1) (emphasis added). Plaintiff Morgal has shown  
9 neither.

10           Plaintiff Morgal did, as LRCiv 7.2(g)(1) requires, "point  
11 out with specificity the matters that [he] believes were  
12 overlooked or misapprehended by the Court" in its order filed  
13 June 6, 2012. See id. Even with that specificity, however,  
14 plaintiff's motion does not provide a proper basis for  
15 granting reconsideration. In the first place, as to some  
16 issues, and particularly as to the central issue of his  
17 diligence in seeking amendment of the Rule 16 order, plaintiff  
18 is asking this court "'to rethink what [it] . . . already  
19 thought through, rightly or wrongly.'" O'Connor v. Scottsdale  
20 Healthcare Corp., 2012 WL 2106365, at \*1 (June 11, 2012)  
21 (quoting Motorola, Inc. v. J.B. Rodgers Mech. Contractors,  
22 Inc., 215 F.R.D. 581, 586 (D.Ariz. 2003)) (other citation  
23 omitted). Asking a court to rethink its analysis is not a  
24 proper basis for seeking reconsideration, however. See id.

25           In a similar vein, and in direct contravention of LRCiv  
26 7.2(g)(1), plaintiff Morgal's motion is rife with "repeat  
27 . . . argument[s]" he made in connection with Morgal v.  
28 Maricopa Cnty. Bd. of Supervisors, 2012 WL 2029719 (D.Ariz.  
June 6, 2012); Doc. 152 (same). See LRCiv 7.2(g)(1) ("No  
motion for reconsideration of an Order may repeat any . . .

1 argument made by the movant in support of or in opposition to  
2 the motion that resulted in the Order.”) For example,  
3 plaintiff reiterates his by now familiar refrain that the  
4 defendant has not fully cooperated in discovery and has misled  
5 the court with respect to the dating and relevancy of the  
6 National Commission on Correctional Health Care (“NCCHC”)   
7 report. Such repetitious arguments cannot form the basis for  
8 relief under LRCiv 7.2(g)(1).

9 Further, to a certain extent, plaintiff’s reconsideration  
10 motion reflects nothing more than his disagreement or  
11 dissatisfaction with this court’s prior order. Such  
12 “dissatisfaction” or disagreement is not “a proper basis for  
13 reconsideration[.]” though. See Spain v. EMC Mortg. Co., 2008  
14 WL 2328358, at \*2 (D.Ariz. June 4, 2008) (citing O’Neal v.  
15 Smithkline Beecham Corp., 2008 WL 1721891, at \*4 (E.D.Cal.  
16 2008) (internal quotation marks and citation omitted)  
17 (“Plaintiffs['] assert[ion][ ] with great vehemence and a  
18 degree of disdain, that they disagree with the court’s  
19 findings[ ] . . . is not grounds for . . . grant[ing] . . .  
20 reconsideration.”); see also Dennis v. Ayers, 2008 WL 1989304,  
21 at \*1 (N.D.Cal. 2008) (Petitioner’s disagreement “with the  
22 Court’s prior resolution of the claim . . . is, of course,  
23 [an] insufficient [basis] for . . . granting] a motion for  
24 reconsideration.”)).

25 LRCiv 7.2(g)(1), governing the “[f]orm and content” of  
26 motions for reconsideration, expressly provides that  
27 “[f]ailure to comply with th[at] subsection may be grounds for  
28 denial of the motion.” Exercising its discretion under that

1 Rule, the court denies plaintiff's motion for reconsideration  
2 because he did not make the requisite showing thereunder for  
3 such relief. See LRCiv 7.2(g)(1).

4 Taking into account plaintiff's *pro se* status, the court  
5 is compelled to point out several ways in which he  
6 fundamentally misapprehends the June 6, 2012 order, as well as  
7 the Ninth Circuit's decision (Doc. 122-1). As to the former,  
8 plaintiff claims that "pursuant to prison mail rules[]" his  
9 reply was "timely and should [have] be[en] considered by the  
10 court." Mot. (Doc. 156) at 1 (citing Doc. 152 at 7 and 8).  
11 The court is uncertain as to what plaintiff means by "prison  
12 mail rules." As detailed in Morgal, however, plaintiff's  
13 reply, dated March 28, 2012, and which he claims was mailed  
14 that same date, was not timely, even including three  
15 additional days for service pursuant to Fed.R.Civ.P. 6(d).  
16 See Morgal, 2012 WL 202971 at \*3; and Doc. 152 at 7:16-8:12.

17 As to footnote four, plaintiff seems to suggest that this  
18 court found that he improperly failed to specifically request  
19 or move for modification of the Rule 16 scheduling order. See  
20 Mot. (Doc. 156) at 2. "[F]ollow[ing] the approach endorsed by  
21 the Ninth Circuit[,]" this court did *not* require such a  
22 specific request or motion, however. Morgal, 2012 WL 202971,  
23 at \*5 n. 4; Doc. 152 at 12 n. 4. Instead, the court  
24 explicitly "construe[d] plaintiff Morgal's motion for leave to  
25 amend as a motion to modify the scheduling order under Rule  
26 16." Id. (citations omitted).

27 Turning to the Ninth Circuit's decision, plaintiff states  
28 that the defendant has "not cooperated with any discovery as


1 . . . noted by the 9<sup>th</sup> Circuit[']s ruling." Mot. (Doc. 156) at  
2 2. Further, plaintiff states that "discovery was not  
3 completed as noted by the 9<sup>th</sup> Circuit remand." Id. These are  
4 both misstatements as to what the Ninth Circuit found. As set  
5 forth in Morgal, in relevant part:

6 [T]he Ninth Circuit found that '[w]hen the  
7 district court granted summary judgment  
8 for the [Board],' plaintiff 'had under submission  
9 five requests that the district court order the  
10 [Board] to produce a specified official  
11 report purporting to identify specific  
12 systemic problems with healthcare services  
13 at the Maricopa County Jail. . . . In light  
14 of those five unresolved discovery "requests,"  
15 the Ninth Circuit held that summary judgment  
16 in the Board's favor was improper. That Court  
17 thus 'vacate[d] and remand[ed] for further  
18 proceedings, including, if applicable, resolution  
19 of any discovery request by either party relating  
20 to the [February 24, 2006] NCCHC report.

21 Morgal, 2012 WL 2029719, at \*1 (quoting Memo. (Doc. 122-1) at  
22 2-3). There is nothing in the Ninth Circuit's decision even  
23 hinting, much less finding that the defendant did not  
24 cooperate with any discovery. Nor did the Ninth Circuit find  
25 that "discovery was not completed[.]" See Mot. (Doc. 156) at  
26 2.

27 With the foregoing clarifications and, as discussed  
28 above, the court hereby DENIES plaintiff Morgal's "Motion to  
Reconsider Ruling on 6/5/2012[.]" See Mot. (Doc. 156) at 1.

DATED this 20<sup>th</sup> day of June, 2012.

  
\_\_\_\_\_  
Robert C. Broomfield  
Senior United States District Judge

Copies to counsel of record and plaintiff *pro se*