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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

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12 James Jackson Ellsworth, )

13 Plaintiff, )

No. CV 11-2554-PHX-RCB

14 vs. )

O R D E R

15 Dennis Kendall, et al., )

16 Defendants. )

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18 Currently pending before the court is a "Motion for  
19 Reconsideration to [sic] District Court Judge of Magistrate  
20 Judge's Order[]" filed by plaintiff *pro se*, James Jackson  
21 Ellsworth, on January 9, 2013 (Doc. 23). Because this court  
22 did not order the filing of a response to the reconsideration  
23 motion, defendants did not file one. See LRCiv 7.2(g) ("No  
24 response to a motion for reconsideration . . . may be filed  
25 unless ordered by the Court[.]") As explained below, the court  
26 hereby **DENIES** plaintiff's motion as moot.

27 On December 18, 2012, three days prior to the scheduling  
28 order's December 21, 2012, time frame for filing dispositive

1 motions, the defendants filed a motion for extension of time  
2 in which to file such motions. The defendants sought that  
3 extension because defendant Kendall was on medical leave at  
4 the time and "numerous Arizona Department of Corrections"  
5 employees and Defendants' counsel" were going to be out of  
6 the office or temporarily unavailable "due to the holiday  
7 season[.]" Mot. (Doc. 21) at 1:22-24. On December 26, 2012,  
8 the Magistrate Judge granted that motion, allowing the  
9 parties "until January 22, 2013, to file dispositive  
10 motions[.]" Ord. (Doc. 22) at 1:15-16.

11 In Ellsworth v. Prison Health Services, Inc., 2013 WL  
12 1149937 (D.Ariz. March 20, 2013) ("Ellsworth I"), another of  
13 plaintiff Ellsworth's pending lawsuits, this court detailed  
14 his non-compliance with LRCiv 7.2(g)(1), which governs  
15 reconsideration motions. See id. at \*1 - \*2. As in  
16 Ellsworth I, in this action plaintiff also has not made the  
17 requisite showing of manifest error or new facts or legal  
18 authority so as to warrant relief under that Rule. See LRCiv  
19 7.2(g)(1) (emphasis added) ("The Court will *ordinarily deny* a  
20 motion for reconsideration of an Order *absent a showing of*  
21 *manifest error or a showing of new facts or legal authority*  
22 that could not have been brought to its attention earlier  
23 with reasonable diligence.")

24 Even overlooking plaintiff Ellsworth's non-compliance  
25 with LRCiv 7.2(g)(1), still, he is not entitled to  
26 reconsideration because, essentially, his motion has become  
27 moot. The plaintiff advances several reasons as to why he is  
28 entitled to reconsideration. At this juncture, the only one

1 worth noting is plaintiff's claim that he has been prejudiced  
2 due to defendants' extension of time. In asserting  
3 prejudice, plaintiff indicated that he would "be forced to  
4 request an extension to file his response to defendants[']  
5 motion for summary judgment." Mot. (Doc. 23) at 7.  
6 Significantly, however, on February 25, 2013, the Magistrate  
7 Judge granted plaintiff's motion for an extension of time in  
8 which to file a response to defendants' summary judgment  
9 motion. Although plaintiff requested an extension until  
10 March 31, 2013, Mot. (Doc. 29) at 2-3, the Magistrate Judge  
11 extended plaintiff's filing time frame until April 5, 2013.  
12 Ord. (Doc. 32) at 1:15-17. In light of the foregoing, the  
13 court finds that plaintiff's motion is moot. Cf. Pitts v.  
14 Terrible Herbst, Inc., 653 F.3d 1081, 1087 (9<sup>th</sup> Cir. 2011)  
15 (citations omitted) ("[I]f events subsequent to the filing of  
16 the case resolve the parties' dispute, [the court] must  
17 dismiss the case as moot[.]")

18 Accordingly, the court hereby **ORDERS** that:

19 (1) the "Motion for Reconsideration to [sic] District  
20 Court Judge of Magistrate Judge's Order[]" (Doc. 23) is  
21 **DENIED**.

22 DATED this 10th day of April, 2013.

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Robert C. Broomfield  
Senior United States District Judge

Copies to counsel of record and plaintiff *pro se* James  
Jackson Ellsworth