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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Armando R. Aros, III,)	No. CV-11-2565-PHX-SRB (LOA)
Plaintiff,)	ORDER
vs.)	
Charles L. Ryan, et al.,)	
Defendants.)	

This matter is before the Court on Plaintiff’s Motion to Reconsider and Plaintiff’s Motion for Extension of Time. (Docs. 216, 217) In the order for which Plaintiff seeks reconsideration, doc. 215, the Court denied Plaintiff’s Application for Leave to File a Supplemental Complaint and Plaintiff’s Motion to Reopen Discovery and Extend Deadlines. (Docs. 193, 194) In the second motion, Plaintiff requests a 45-day extension to respond to Defendants’ Motion for Summary Judgment.

Plaintiff contends in the motion for reconsideration that the Court overlooked an alternative to an outright denial of his motion to file a supplemental complaint. Plaintiff claims the Court “could have allowed the Supplemental Complaint solely to the extent that Plaintiff be permitted to debate the evidence bearing on his Vitamin D deficiency and the subsequent improvement to his health caused by greater exposure to direct sunlight.” (Doc. 216 at 2) (emphasis in original)

Motions for reconsideration are governed by LRCiv 7.2(g)(1), which provides:

1 The Court will ordinarily deny a motion for reconsideration of an Order absent
2 a showing of manifest error or a showing of new facts or legal authority that
3 could not have been brought to its attention earlier with reasonable diligence.
4 Any such motion shall point out with specificity the matters that the movant
5 believes were overlooked or misapprehended by the Court, any new matters being
6 brought to the Court's attention for the first time and the reasons they were not
7 presented earlier, and any specific modifications being sought in the Court's
8 Order. No motion for reconsideration of an Order may repeat any oral or written
9 argument made by the movant in support of or in opposition to the motion that
10 resulted in the Order. Failure to comply with this subsection may be grounds for
11 denial of the motion.

12 Motions for reconsideration should be granted only in rare circumstances. *Defenders of*
13 *Wildlife v. Browner*, 909 F. Supp. 1342, 1351 (D. Ariz. 1995). "Reconsideration is appropriate
14 if the district court (1) is presented with newly discovered evidence, (2) committed clear error
15 or the initial decision was manifestly unjust, or (3) if there is an intervening change in
16 controlling law." *School Dist. No. 1J, Multnomah County v. ACandS, Inc.*, 5 F.3d 1255, 1263
17 (9th Cir. 1993). "The purpose of a motion for reconsideration is to correct manifest errors of
18 law or fact or to present newly discovered evidence." *Harsco Corp. v. Zlotnicki*, 779 F.2d 906,
19 909 (3d Cir.1985), *cert. denied*, 476 U.S. 1171 (1986). Such motions should not be used for the
20 purpose of asking a court "to rethink what the court had already thought through - rightly or
21 wrongly." *Defenders of Wildlife*, 909 F.Supp. at 1351 (quoting *Above the Belt, Inc. v. Mel*
22 *Bohannon Roofing, Inc.*, 99 F.R.D. 99, 101 (E.D. Va. 1983)).

23 Here, Plaintiff has not shown the Court's denial of his motion to file a supplemental
24 complaint constituted clear error, or that it should be reconsidered based on newly discovery
25 evidence or an intervening change in the law. The motion for reconsideration will, therefore,
26 be denied. However, the Court's ruling denying Plaintiff's motion to file a supplemental
27 complaint should not be interpreted to preclude Plaintiff from presenting proper summary
28 judgment evidence pertaining to his Vitamin D levels, including evidence showing alleged
changes in those levels based on exposure to direct sunlight. Plaintiff may present such evidence
on summary judgment to support his claim in Count Thirteen that he has received inadequate
exposure to direct sunlight, in violation of the Eighth Amendment.

Regarding the motion for additional time to respond to Defendants' Motion for
Summary Judgment, this is Plaintiff's second request for an extension of the response deadline.

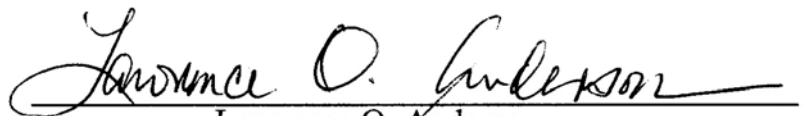
1 The Court previously granted an extension until June 23, 2014. (Doc. 214) The Motion for
2 Summary Judgment was filed on April 18, 2014. After review of the reasons set forth in
3 Plaintiff's motion, the Court finds a thirty day extension is warranted. The motion will,
4 therefore, be granted in part. No further extensions will be granted.

5 Accordingly,

6 **IT IS ORDERED** that Plaintiff's Motion to Reconsider, doc. 216, is **DENIED**.

7 **IT IS FURTHER ORDERED** that Plaintiff's Motion for Extension of Time, doc. 217,
8 is **GRANTED** in part. The motion is granted in that the deadline for Plaintiff to file a response
9 to Defendants' Motion for Summary Judgment is extended by thirty days. Plaintiff's response
10 must be filed **no later than July 23, 2014**. No further extensions will be granted.

11 DATED this 26th day of June, 2014.

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14 Lawrence O. Anderson
15 United States Magistrate Judge
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