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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JULIAN De MEDEIROS,

CASE NO. 1:05-cv-397-AWI-MJS (PC)

Plaintiff,

ORDER DENYING AS MOOT PLAINTIFF’S  
MOTION TO RECONSIDER AND MOTION  
TO STAY

v.

JAMES A. YATES, et al.,

(ECF Nos. 56 & 65)

Defendants.

\_\_\_\_\_ /

Plaintiff Julian De Medeiros (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On February 1, 2010, the Magistrate Judge recommended that Plaintiff’s two pending Motions for a Temporary Restraining Order (“TRO”) be denied. (ECF No. 49.) Upon Plaintiff’s Motion, the time for filing objections to the recommendation was extended until March 29, 2010. (ECF No. 54.) On March 22, 2010, the Court denied one of the pending TROs based on its finding that the two motions were duplicative. The Court noted that its denial would have no affect on either the pending recommendation or the Court’s consideration of Plaintiff’s objections to the recommendation. (ECF No. 55.) On April 21, 2010, Plaintiff appealed the Court’s denial of his TRO. (ECF No. 60.) On August 25, 2010, the Ninth Circuit summarily affirmed the Court’s order. (ECF No. 67.)

Before the Court is Plaintiff’s “Urgent Motion to Reconsider and Vacate Order (Doc. #55) as Premature While Plaintiff’s Motion to File Objections is still Pending, Pursuant to Fed. R. Civ. P. 52(b), 59(e), 60(b).” (ECF No. 56.) Plaintiff argues that the Court should not have denied his TRO during the period for filing objections. Because the Ninth Circuit has affirmed the Court’s

1 denial of Plaintiff's TRO, Plaintiff's Motion to Reconsider is moot. See Klein v. McClaury, 44 F.  
2 App'x 454, 455 (10th Cir. 2002). Accordingly, Plaintiff's Urgent Motion to Reconsider is DENIED.

3 Plaintiff has also filed a Motion to Stay Briefing on Interlocutory Appeal Pending Full  
4 Resolution of Underlying Still-Pending Motion for Temporary Restraining Order. (ECF No. 65.)  
5 To the extent that this Motion is directed to this Court,<sup>1</sup> it is DENIED as moot because the appeal  
6 has since been resolved.

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10 IT IS SO ORDERED.

11 Dated: September 3, 2010

/s/ Michael J. Seng  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup> The heading on the Motion to Stay refers to the Court of Appeals for the Ninth Circuit. Nevertheless, because the Motion was filed with this court, the Court addresses its merits.