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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

BRYAN E. RANSOM,

Plaintiff,

v.

A. K. SCRIBNER, et al.,

Defendants.

CASE NO. 1:06-CV-00208-LJO-DLB PC

ORDER DENYING PLAINTIFF’S MOTIONS  
FOR RECONSIDERATION (DOCS. 86, 91)

Plaintiff Bryan E. Ransom (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On December 6, 2010, Plaintiff filed a motion requesting further discovery. On February 2, 2011, the Magistrate Judge issued an order denying Plaintiff’s motion, construing the motion as one to re-open discovery. On February 2, 2011, Plaintiff also filed a motion seeking clarification and reconsideration. Doc. 86. On February 14, 2011, Plaintiff filed a motion seeking reconsideration of the Magistrate Judge’s February 2, 2011 Order, which denied Plaintiff’s motion seeking further discovery.

Pursuant to Federal Rule of Civil Procedure 72(a), which governs review of magistrate judge’s orders, “[t]he district judge in the case must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.” See 28 U.S.C. § 636(b)(1)(A); L. R. 303. The assigned district judge may also reconsider any matter *sua sponte*. L.R. 303(g).

Under the clearly erroneous standard of review, a district court may overturn a magistrate judge’s ruling “only if the district court is left with the definite and firm conviction that a

1 mistake has been made.” *Computer Economics, Inc. v. Gartner Group, Inc.*, 50 F. Supp. 2d  
2 980, 983 (S.D. Cal. 1999) (quoting *Weeks v. Samsung Heavy Indus. Co., Ltd.*, 126 F.3d 926, 943  
3 (7th Cir. 1997)). Under the contrary to law standard, a district court may conduct independent  
4 review of purely legal determinations by a magistrate judge. *Id.*

5 In his February 2, 2011 motion, Plaintiff clarifies that Plaintiff is not requesting new  
6 discovery, but seeks replacement of his previous discovery, which he contends prison officials  
7 lost. Plaintiff subsequently reiterates his arguments in his February 14, 2011 motion.  
8 Accordingly, Plaintiff’s February 2, 2011 is DENIED as moot.

9 In his February 14, 2011 motion, Plaintiff contends that Defendant Scribner, the former  
10 warden of Corcoran State Prison, and Defendant Duncan, the former deputy director of the  
11 California Department of Corrections and Rehabilitation (“CDCR”), are responsible for the loss  
12 of Plaintiff’s legal property. Plaintiff contends that Defendants’ successors are liable, as Plaintiff  
13 sued both Defendants in their official capacity. Plaintiff contends that the loss of legal property  
14 has adversely prejudiced his ability to oppose Defendants’ motion for summary judgment.

15 Plaintiff’s request for replacement of previous discovery materials is treated as a motion  
16 for preliminary injunctive relief. “A plaintiff seeking a preliminary injunction must establish that  
17 he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of  
18 preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the  
19 public interest.” *Winter v. Natural Res. Def. Council, Inc.*, 129 S. Ct. 365, 374 (2008) (citations  
20 omitted). Here, Plaintiff contends that he was prejudiced in his ability to oppose Defendants’  
21 motion for summary judgment. However, a review of Plaintiff’s opposition indicates that he is  
22 missing only one exhibit from his opposition, a findings and conclusion by a three-judge court  
23 that ruled on *Coleman v. Schwarzenegger*, docket No. 2:90-cv-00520-LKK-JFM (E.D. Cal.), and  
24 *Plata v. Schwarzenegger*, docket No. 3:01-cv-01351-THE (N.D. Cal), which were consolidated.<sup>1</sup>  
25 There appears to be no irreparable harm deriving from Plaintiff’s inability to submit a copy with  
26 the Court in support of his opposition to Defendants’ motion for summary judgment. The Court

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28 <sup>1</sup> The Court takes judicial notice of *Coleman* and *Plata* and the three-judge court’s order regarding those cases.

1 may take judicial notice of that order when it considers Plaintiff's opposition.

2 Plaintiff's request for sanction against Defendants is also denied. Plaintiff seeks sanction  
3 against Defendants for losing Plaintiff's property. Plaintiff proffers no evidence that Defendants  
4 are liable for the loss of Plaintiff's legal property in this matter. Plaintiff concedes that  
5 Defendants are no longer employed by the CDCR. Plaintiff's argument that their successors  
6 should be liable because Plaintiff is suing Defendants in their official capacity is unavailing.

7 Accordingly, Plaintiff's motion for reconsideration, filed February 14, 2011, is DENIED.  
8 IT IS SO ORDERED.

9 **Dated: February 28, 2011**

/s/ Lawrence J. O'Neill  
UNITED STATES DISTRICT JUDGE

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