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**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

Gary Andre Lacy,)	No. CV 1-07-0381-JMR
Plaintiff,)	ORDER
vs.)	
H. Tyson, et al.,)	
Defendants.)	

Plaintiff Gary Andre Lacy, who is confined in the Salinas Valley State Prison (SVSP) in Soledad, California, filed a *pro se* civil rights Complaint pursuant to 42 U.S.C. § 1983 and subsequently lodged a Second Amended Complaint (SAC) (Doc. # 16). By Order dated August 27, 2009, the Court ordered Defendants R. Reyna, Correa, Peacock, Bremnar, Brookwalter, T. Reyna, Tyson, Aspeitia, and Patel to answer Counts I, II, and IV of the SAC and dismissed the remaining claims and defendants without prejudice (Doc. # 17).

On September 15, 2009, Plaintiff filed a Motion for Reconsideration of the Court’s August 27, 2009 Screening Order (Doc. # 18).

I. Motion for Reconsideration

In his Motion for Reconsideration, Plaintiff requests that the Court reconsider its dismissal of Count III—Plaintiff’s claim that Defendants denied Plaintiff his right to equal protection under the law because other similarly situated inmates would “likely” not have had their rights violated (Doc. # 16 at 6). Plaintiff also alleges in his motion that Defendants

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1 “acted in concert willingly and malicious[ly] to cover-up their actions of excessive force by
2 failing to report the use of force as policy in order to have Plaintiff’s claims investigated, in
3 so acting in a code of silence . . . to violate Plaintiff’s right to equal protection” (Doc. # 18
4 at 2).

5 Reconsideration is only appropriate if the district court “(1) is presented with newly
6 discovered evidence, (2) committed clear error or the initial decision was manifestly unjust,
7 or (3) if there is an intervening change in controlling law.” School Dist. No. 1J, Multnomah
8 County v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). The Court has reviewed the
9 allegations in Plaintiff’s SAC and finds no error in its dismissal of Count III. As articulated
10 in the Court’s August 27, 2009 Order, Plaintiff’s conclusory and speculative claim that he
11 was denied equal protection is insufficient to state a claim. Ashcroft v. Iqbal, 129 S. Ct.
12 1937, 1949 (2009). Plaintiff offers no facts that other inmates have been treated differently
13 or that any difference in treatment was caused by an impermissible motive. Further, to the
14 extent that Plaintiff argues in his Motion for Reconsideration that Defendants conspired to
15 deny Plaintiff his constitutional rights, Plaintiff’s conspiracy claim is conclusory and fails
16 to state a claim. Woodrum v. Woodward County, 866 F.2d 1121, 1126 (9th Cir. 1989)
17 (stating that conclusory allegations of conspiracy do not support a § 1983 claim). The Court
18 will deny Plaintiff’s Motion for Reconsideration.

19 **II. Warnings**

20 **A. Address Changes**

21 Plaintiff must file and serve a notice of a change of address in accordance with Rule
22 83-182(f) and 83-183(b) of the Local Rules of Civil Procedure. Plaintiff must not include
23 a motion for other relief with a notice of change of address. Failure to comply may result in
24 dismissal of this action.

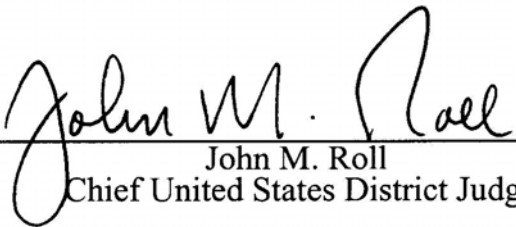
25 **B. Copies**

26 Plaintiff must submit an additional copy of every filing for use by the Court. See
27 LRCiv 5-133(d)(2). Failure to comply may result in the filing being stricken without further
28 notice to Plaintiff.

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IT IS ORDERED Plaintiff's September 15, 2009 Motion for Reconsideration (Doc. # 18) is **denied**.

DATED this 16th day of October, 2009.



John M. Roll
Chief United States District Judge