

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BARRY LAMON,

Plaintiff,

v.

JOHN TILTON, et al.,

Defendants.

CASE NO. 1:07-cv-00493-AWI-DLB PC

ORDER DENYING MOTION FOR RE-
ARGUMENT/RECONSIDERATION

(Doc. 45)

Plaintiff Barry Lamon (“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 September 12, 2008, the Court dismissed Plaintiff’s second amended complaint with leave to amend, for failure to comply with Rules 8 and 18 of the Federal Rules of Civil Procedure. (Doc. 28). On December 18, 2008, Plaintiff filed a third amended complaint, along with a motion for a temporary restraining order and injunctive relief. (Doc. 42). On December 23, 2008, the undersigned issued a [Findings and Recommendations](#), recommending that Plaintiff’s motion for a temporary restraining order and preliminary injunctive relief be denied. Plaintiff was advised that he may file written objections to the Findings and Recommendations within thirty (30) days. (Doc. 44).

On January 20, 2009, Plaintiff filed a [motion](#) requesting re-argument of his motion for a temporary restraining order/injunctive relief. (Doc. 45). Plaintiff has also filed an [Objection](#) to the Findings and Recommendations. (Doc. 48). This order addresses only Plaintiff’s motion for re-argument, which the court construes as a motion for reconsideration.

///

1 In his motion, Plaintiff references Local Rule 78-230(k), which governs applications for
2 reconsideration. The Rule states in relevant part, “[w]henver any motion has been granted or denied
3 in whole or in part, and a subsequent motion for reconsideration is made upon the same or any
4 alleged different set of facts, it shall be the duty of counsel to present to the Judge or Magistrate
5 Judge to whom such subsequent motion is made an affidavit or brief, as appropriate, setting forth
6 the material facts and circumstances surrounding each motion for which reconsideration is sought...”

7 Plaintiff’s motion for reconsideration must be denied as premature. The [Findings and](#)
8 [Recommendations](#) have not yet been addressed by the District Judge, and so Plaintiff’s motion for
9 a temporary restraining order and/or injunctive relief has not yet been denied or granted in whole or
10 in part. Local Rule 78-230(k). A party who is dissatisfied with the Findings and Recommendations
11 may file an objection, which Plaintiff has already done.

12 Accordingly, Plaintiff’s motion for re-argument/reconsideration, filed January 20, 2009, is
13 HEREBY ORDERED DENIED as premature.

14 IT IS SO ORDERED.

15 **Dated: February 19, 2009**

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE