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6 **UNITED STATES DISTRICT COURT**

## 7 EASTERN DISTRICT OF CALIFORNIA

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9 TRAVIS RAY THOMPSON, CASE NO. 1:07-cv-00572-SKO PC

10 Plaintiff, ORDER RE MOTION

11 v. (Doc. 35)

12 SCOTT KERNAN, et al.,

13 Defendants.  
14 /15 Plaintiff Travis Ray Thompson (“Plaintiff”) is a state prisoner proceeding pro se and in forma  
16 pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On October 19, 2009, Plaintiff filed  
17 a motion entitled “Motion for Reconsideration, or Alternatively for an Interlocutory Appeal of the  
18 Order Dismissing Certain Claims, Dated 10-5-09.” (Doc #35.) Plaintiff has consented to  
19 jurisdiction by U.S. Magistrate Judge. (Doc. #4.) No other parties have made an appearance in this  
20 action.21 Plaintiff requests that the Court reconsider its October 6, 2009 order dismissing certain  
22 claims from this action. Federal Rule of Civil Procedure 60(b) states:23 On motion and just terms, the court may relieve a party or its legal  
24 representative from a final judgment, order, or proceeding for the  
following reasons:25 (1) mistake, inadvertence, surprise, or excusable neglect;  
26 (2) newly discovered evidence that, with reasonable diligence, could  
not have been discovered in time to move for a new trial under Rule  
59(b);  
27 (3) fraud (whether previously called intrinsic or extrinsic),  
misrepresentation, or misconduct by an opposing party;  
28 (4) the judgment is void;

1 (5) the judgment has been satisfied, released or discharged; it is based  
2 on an earlier judgment that has been reversed or vacated; or applying  
3 it prospectively is no longer equitable; or  
4 (6) any other reason that justifies relief.

5 Plaintiff has not demonstrated that relief from the Court's prior order is warranted under Rule 60(b).

6 Plaintiff has not specifically identified which of the enumerated reasons apply. Plaintiff argues that  
7 the Court's judgment was erroneous. However, Plaintiff fails to raise any arguments that were not  
8 considered by the Court when the order was issued. Plaintiff's motion for reconsideration will be  
9 denied.

10 Plaintiff alternatively seeks an interlocutory appeal of the Court's dismissal of his claims.

11 Plaintiff is advised that it is not necessary to seek the permission of this Court to file an appeal with  
12 the Ninth Circuit.<sup>1</sup>

13 Accordingly, it is HEREBY ORDERED that Plaintiff's motion, filed on October 19, 2009,  
14 is DENIED.

15 IT IS SO ORDERED.

16 Dated: April 21, 2010

17 /s/ Sheila K. Oberto  
18 UNITED STATES MAGISTRATE JUDGE

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26 <sup>1</sup>The order dismissing Plaintiff's claims was conducted by a Magistrate Judge on consent of Plaintiff, as  
27 provided by 28 U.S.C. § 636(c). Section 636(c)(3) provides:  
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Upon entry of judgment in any case referred under paragraph (1) of this  
subsection, an aggrieved party may appeal directly to the appropriate United  
States court of appeals from the judgment of the magistrate judge in the same  
manner as an appeal from any other judgment of a district court.