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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

TRAVIS RAY THOMPSON,	CASE NO. 1:07-cv-00572-OWW-SMS PC
Plaintiff,	ORDER DENYING PLAINTIFF’S MOTION FOR RECONSIDERATION
v.	(ECF No. 88)
ALVAREZ, et al.,	
Defendants.	

Plaintiff Travis Ray Thompson (“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 June 8, 2011, this action was dismissed for failure to exhaust administrative remedies. (ECF No. 85.) On June 21, 2011, Plaintiff filed a timely motion for reconsideration under Federal Rules of Civil Procedure 59 or 60. (ECF No. 88.)

“A motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law,” and it “may *not* be used to raise arguments or present evidence for the first time when they could reasonably have been raised earlier in the litigation.” Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citations omitted) (emphasis in original).

Plaintiff does not argue that newly discovered evidence or an intervening change of the law requires reinstatement of this action. All papers and files in this action were considered in deciding the motion to dismiss for failure to exhaust administrative remedies. In his motion filed June 21,

1 2011, Plaintiff presents the same argument already considered by the Court, that Defendants did not
2 meet their burden to show that he did not exhaust administrative remedies and his letter to the
3 Inspector General is sufficient to show he exhausted administrative remedies. Plaintiff has not
4 demonstrated that he can cure the defects with respect to any federal claim alleged in his complaint.

5 Accordingly, it is HEREBY ORDERED that Plaintiff's motion for reconsideration, filed June
6 21, 2011, is DENIED.

7 IT IS SO ORDERED.

8 **Dated: June 27, 2011**

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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