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**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

CHRISTOPHER I. SIMMONS,	)	Case No.: 1:07-cv-01058-LJO-SAB (PC)
	)	
Plaintiff,	)	
	)	ORDER DENYING PLAINTIFF’S MOTION
v.	)	FOR RECONSIDERATION AND MOTION
	)	FOR STAY OF PROCEEDINGS
GRISSOM, et al.,	)	
	)	[ECF Nos. 132, 133]
Defendants.	)	
	)	
	)	

Plaintiff Christopher I. Simmons is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

On October 8, 2015, Plaintiff filed a motion for reconsideration of the Magistrate Judge’s September 28, 2015, order denying Plaintiff’s request to stay the proceedings. (ECF No. 132.) On this same date, Plaintiff filed a motion to stay the proceedings pending the resolution of his motion for reconsideration. (ECF No. 133.)

**I.  
LEGAL STANDARD**

Reconsideration motions are committed to the discretion of the trial court. Rodgers v. Watt, 722 F.2d 456, 460 (9th Cir. 1983) (en banc); Combs v. Nick Garin Trucking, 825 F.2d 437, 441 (D.C. Cir. 1987). A party seeking reconsideration must set forth facts or law of a strongly convincing nature to induce the court to reverse a prior decision. See, e.g., Kern-Tulare Water Dist. v. City of

1 Bakersfield, 634 F.Supp. 656, 665 (E.D. Cal. 1986), aff'd in part and rev'd in part on other grounds,  
2 828 F.2d 514 (9th Cir. 1987).

3 This Court reviews a motion to reconsider a Magistrate Judge's ruling under the "clearly  
4 erroneous or contrary to law" standard set forth in 28 U.S.C. § 636(b)(1)(A) and Fed. R. Civ. P. 72(a).  
5 As such, the court may only set aside those portions of a Magistrate Judge's order that are either  
6 clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); see also Grimes v. City and County of San  
7 Francisco, 951 F.2d 236, 240 (9th Cir.1991) (discovery sanctions are non-dispositive pretrial matters  
8 that are reviewed for clear error under Fed. R. Civ. P. 72(a)).

9 A magistrate judge's factual findings are "clearly erroneous" when the district court is left with  
10 the definite and firm conviction that a mistake has been committed. Security Farms v. International  
11 Bhd. of Teamsters, 124 F.3d 999, 1014 (9th Cir. 1997); Green v. Baca, 219 F.R.D. 485, 489 (C.D. Cal.  
12 2003). The "'clearly erroneous' standard is significantly deferential." Concrete Pipe and Products of  
13 California, Inc. v. Construction Laborers Pension Trust for Southern California, 508 U.S. 602, 623,  
14 113 S.Ct. 2264 (1993).

15 The "contrary to law" standard allows independent, plenary review of purely legal  
16 determinations by the magistrate judge. See Haines v. Liggett Group, Inc., 975 F.2d 81, 91 (3rd  
17 Cir.1992); Green, 219 F.R.D. at 489; see also Osband v. Woodford, 290 F.3d 1036, 1041 (9th Cir.  
18 2002). "An order is contrary to law when it fails to apply or misapplies relevant statutes, case law, or  
19 rules of procedure." Knutson v. Blue Cross & Blue Shield of Minn., 254 F.R.D. 553, 556 (D. Minn.  
20 2008); Rathgaber v. Town of Oyster Bay, 492 F.Supp.2d 130, 137 (E.D.N.Y. 2007); Surles v. Air  
21 France, 210 F.Supp.2d 501, 502 (S.D.N.Y. 2001); see also Adolph Coors Co. v. Wallace, 570 F.Supp.  
22 202, 205 (N.D. Cal. 1983).

## 23 II.

### 24 DISCUSSION

25 On September 28, 2015, the assigned Magistrate Judge granted Defendants' motion to compel,  
26 denied Plaintiff's motion to stay the proceedings, and extended the discovery and dispositive motion  
27 deadlines. (ECF No. 131.)  
28

1 Plaintiff now moves for reconsideration of the Magistrate Judge’s denial of his request to stay  
2 the proceedings due to his mental condition. In denying Plaintiff’s motion, the Magistrate Judge  
3 found that Plaintiff failed to submit sufficient evidence which placed his competency to prosecute this  
4 action in question and there was an insufficient basis to stay the proceedings. (ECF No. 131, Order at  
5 6.) In reaching this conclusion the Magistrate Judge reasoned as follows:

6 Plaintiff seeks an indefinite stay of the proceedings “pending resolution of Plaintiff’s  
7 medical condition.” (ECF No. 125.) Plaintiff contends he “is currently suffering from  
8 PTSD, affecting his [cognitive] functions, including, but not limited to, abstraction,  
9 concentration, attention, intellectual faculties, memory and ability to process  
information sufficiently to prepare meaningful moving and opposing papers, prepare  
for trial, discovery and respond to requests by defendants.” (Id. at 2.)

10 Discovery in this action opened in July 2014, and the parties were given eight months  
11 to conduct pretrial discovery. (ECF No. 90.) In January 2015, Plaintiff was transferred  
12 from the California Medical Facility to Atascadero State Hospital for psychiatric  
13 treatment. (ECF Nos. 105, 107.) Plaintiff was retained at Atascadero for 49 days, from  
14 December 5, 2014, to January 23, 2015. (ECF No. 113, at 2 and n.1.) During this time,  
15 Plaintiff was without his legal materials. (Id. at 2.) As a result, the Court modified the  
16 scheduling order by extending the discovery deadline and the dispositive motion  
17 deadline, each by 60 days. (ECF No. 115.)

18 Then, approximately two months later, Plaintiff was transferred from the California  
19 Medical Facility to Atascadero a second time. (ECF No. 120.) Plaintiff was again  
20 separated from his legal materials for just over 90 days. The Court modified the  
21 scheduling order by extending the discovery deadline for an additional 60 days, and the  
22 dispositive motion deadline for an extra 50 days. (ECF No. 123.)

23 Defendants do not oppose a short modification of the scheduling order to complete  
24 discovery and to allow the parties to file dispositive motions. Defendants propose a 30-  
25 day extension of the discovery deadline, with a corresponding 30-day extension of the  
26 dispositive motion deadline.

27 As previously stated, in support of his motion to stay, Plaintiff submits a memorandum,  
28 dated July 14, 2015, which notes that Plaintiff is diagnosed with Major Depressive  
Disorder, Recurrent, Severe, without Psychotic Features for which he is being treated.  
(ECF No. 125.) Plaintiff also submits medical progress notes, dated February 27, 2015,  
and March 5, 2015, which are not relevant to the time frame at issue. Plaintiff has  
failed to produce evidence that calls his competency into question, and he has not  
demonstrated that the proceedings should be stayed.

(ECF No. 131, Order at 5:17-28-6:1-14.)

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