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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

BARRY LOUIS LAMON,

Plaintiff,

v.

DERRAL G. ADAMS, et al.,

Defendants.

CASE NO: 1:07-cv-01390-LJO-GBC (PC)

ORDER DENYING RULE 59(e) MOTIONS FOR RECONSIDERATION

(Docs. 87, 88)

**I. Procedural Background**

Barry Louis 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. This action was filed on September 21, 2007, and is proceeding on Plaintiff’s second amended complaint filed on April 8, 2009. (Docs. 1, 21, 30). On June 7, 2011, the Magistrate Judge filed findings and recommendations in which recommended dismissing the action as time-barred. (Doc. 79). On July 6, 2011, the Court adopted the findings and recommendations and dismissed the action. (Docs. 85, 86). On July 20, 2011, and August 3, 2011, Plaintiff filed two motions for reconsideration pursuant to Rule 59(e) of the Federal Rules of Civil Procedure. (Docs. 87, 88).

**II. Legal Standard and Analysis**

Under Federal Rule of Civil Procedure 59(e), a party may move to have the court amend its judgment within twenty-eight days after entry of the judgment. Fed. R. Civ. P. 59(e). ‘Since specific grounds for a motion to amend or alter are not listed in the rule, the district court enjoys considerable discretion in granting or denying the motion.’ *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th

1 Cir. 2011) (quoting *McDowell v. Calderon*, 197 F.3d 1253, 1255 n. 1 (9th Cir.1999) (en banc) (per  
2 curiam)). But amending a judgment after its entry remains ‘an extraordinary remedy which should  
3 be used sparingly.’ *Id.* In general, there are four basic grounds upon which a Rule 59(e) motion may  
4 be granted: (1) if such motion is necessary to correct manifest errors of law or fact upon which the  
5 judgment rests; (2) if such motion is necessary to present newly discovered or previously unavailable  
6 evidence; (3) if such motion is necessary to prevent manifest injustice; or (4) if the amendment is  
7 justified by an intervening change in controlling law. *Id.*

8 In Plaintiff’s motions for reconsideration, Plaintiff argues that the Court erred in stating that  
9 Plaintiff filed objections on June 29, 2011, when Plaintiff asserts that he, in fact, filed objections on  
10 June 24, 2011. (Doc. 87 at 2-3; Doc. 88 at 2-3). Plaintiff appears to argue that the Court failed to  
11 consider Plaintiff’s arguments in his objection because the Court did not reiterate Plaintiff’s  
12 objections in its order to adopt. (Doc. 87 at 4; Doc. 88 at 3-4). Although the Court did not reiterate  
13 Plaintiff’s arguments in his objections in its order adopting the findings and recommendations, the  
14 Court did review Plaintiff objections and determined that the findings and recommendations were  
15 supported by proper legal analysis. (Doc. 85).

16 **III. Conclusions and Order**

17 The Court finds that Plaintiff has failed to demonstrate that he is entitled to reconsideration  
18 pursuant to Rule 59(e). Having carefully reviewed the entire file, the Court finds its order adopting  
19 the findings and recommendations and dismissing the action as barred by res judicata is supported  
20 by the record and by proper analysis.

21 Accordingly, IT IS HEREBY ORDERED that Plaintiff’s motions for reconsideration filed  
22 on July 20, 2011, and August 3, 2011, are DENIED. (Docs. 87, 88).

23 IT IS SO ORDERED.

24 Dated: November 2, 2011

/s/ Lawrence J. O’Neill  
UNITED STATES DISTRICT JUDGE