

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MICHAEL GONZALES, CASE NO. 1:07-cv-01391-AWI-GBC (PC)

Plaintiff, ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION

V.

(ECF No. 44)

PRICE, et al.,

Defendant.

ORDER

Plaintiff Michael Gonzales is a state prisoner proceeding pro se and in forma pauperis in this civil action pursuant to 42 U.S.C. § 1983.

On April 22, 2011, the Court issued an Order denying Plaintiff's Motion for Appointment of Counsel. (ECF No. 42.) Pending before the Court now is Plaintiff's Motion for Reconsideration filed on May 4, 2011. (ECF No. 44.)

Federal Rule of Civil Procedure 60(b)(6) allows the Court to relieve a party from an order for any reason that justifies relief. Rule 60(b)(6) “is to be used sparingly as an equitable remedy to prevent manifest injustice and is to be utilized only where extraordinary circumstances . . .” exist. Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and citation omitted). The moving party “must demonstrate both injury and circumstances beyond his control” Id. (internal quotation marks and citation omitted). Further, Local Rule 230(j) requires, in relevant part, that Plaintiff show “what new or different facts or circumstances are claimed to exist which did not exist or were not

1 shown upon such prior motion, or what other grounds exist for the motion," and "why the
2 facts or circumstances were not shown at the time of the prior motion."

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

10 Plaintiff has offered no new evidence, no indication of any error committed by the
11 court, nor has he cited any change in the controlling law. Plaintiff does not offer any new
12 or different facts or circumstances. In fact, Plaintiff does not offer any argument as to why
13 the Court's Order was wrong.

14 Because Plaintiff did not meet his burden as the party moving for reconsideration,
15 his motion is HEREBY DENIED.

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17 IT IS SO ORDERED.

18 Dated: July 29, 2011

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20 CHIEF UNITED STATES DISTRICT JUDGE

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