

1 denied. Id. The Court found that Plaintiff had previously corresponded with Michael Key and the
2 Motion was denied as moot as to Michael Key. Id. at 4.

3 On February 8, 2013, Plaintiff sought reconsideration of the order. (Doc. 145). The Court
4 declined to reconsider his prior request to correspond with inmates. (Doc. 146). The Court determined
5 that Plaintiff failed to demonstrate how inmates Damon Moore, Lovoyne Macon and Dewayne
6 Thedford related to this case and reiterated the Court lacked the authority to order the correspondence
7 he requested. (Doc. 145 at 3).

8 In his present Motion, Plaintiff indicates that he renewed his request to obtain permission to
9 correspond with witnesses by seeking permission from his current correctional counselor, Mr.
10 Dominguez. (Doc. 148 at 2). Plaintiff does not indicate which potential witnesses he sought to contact
11 with Mr. Dominguez's permission. *See generally*, (Doc.148). However, Plaintiff indicates that
12 Damon Moore, Lovoyne Macon, and Dewayne Thedford were witnesses to the incident in which
13 Plaintiff alleges Defendants Garcia and Bonella forced Plaintiff to the ground on October 5, 2006.
14 (Doc. 148 at 2). Plaintiff moves the Court to "request" – not order – the CDCR to facilitate
15 correspondence with these potential witnesses. Id.

16 **II. DISCUSSION**

17 Reconsideration is an "extraordinary remedy, to be used sparingly in the interests of finality
18 and conservation of judicial resources." *Carroll v. Nakatani*, 342 F.3d 934, 945 (9th Cir. 2003). A
19 reconsideration motion "should not be granted absent highly unusual circumstances." McDowell v.
20 Calderon, 197 F.3d 1253, 1255 (9th Cir. 1999), cert. denied, 490 U.S. 1059 (1989). A reconsideration
21 motion "is not a vehicle for relitigating old issues, presenting the case under new theories, securing a
22 rehearing on the merits, or otherwise taking a 'second bite at the apple.'" *See Sequa Corp. v. GBJ*
23 Corp., 156 F.3d 136, 144 (2d Cir. 1998). "To succeed, a party must set forth facts or law of a strongly
24 convincing nature to induce the court to reverse its prior decision." Id. Reconsideration is appropriate
25 if the court: (1) is presented with newly discovered evidence; (2) has committed clear error or the
26 initial decision was manifestly unjust; or (3) is presented with an intervening change in controlling
27 law. School District 1J, Multnomah County v. AC and S, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993), cert.
28 denied, 512 U.S. 1236 (1994). In addition, there may be other highly unusual circumstances

1 warranting reconsideration. Id. Under this Court’s Local Rule 230(j), a party seeking reconsideration
2 must demonstrate “what new or different facts or circumstances are claimed to exist which did not
3 exist or were not shown upon such prior motion, or what other grounds exist for the motion” and “why
4 the facts or circumstances were not shown at the time of the prior motion.”

5 Here, Plaintiff explains that Damon Moore, Lovoyne Macon, and Dewayne Thedford were
6 actual eyewitnesses to an alleged altercation between Plaintiff and Defendants Garcia and Bonilla on
7 October 5, 2006, which is the subject of this litigation. The Court finds that Damon Moore, Lovoyne
8 Macon, and Dewayne Thedford’s potential testimony is substantially related to the present case.

9 However - as the Court previously held in its Orders dated January 18, 2013, and February 14,
10 2013 – the Court does not have jurisdiction over anyone other than Plaintiff and the Defendants. *E.g.*,
11 City of Los Angeles v. Lyons, 461 U.S. 95, 102 (1983); Valley Forge Christian Coll. v. Ams. United
12 for Separation of Church and State, Inc., 454 U.S. 464, 471 (1982). The Court cannot order the CDCR
13 to permit Plaintiff to be allowed to correspond with his witnesses. Id. Plaintiff is again reminded that
14 – at most – the Court **can only request** the CDCR to permit correspondence. *Se e.g.*, McElroy v. Cox,
15 Case No. 1:08-cv-01221-LJO-GSA-PC, 2012 WL 1299618 * 1-2 (E.D. Cal. 2012). Therefore, the
16 Court **DENIES** Plaintiff’s Motion for Request for Reconsideration, but **REQUESTS** that the CDCR
17 facilitate correspondence between Plaintiff and inmates Damon Moore, Lovoyne Macon and Dewayne
18 Thedford.

19 In regard to Michael Key and Frank Ward, the Court **DENIES** Plaintiff’s Motion to
20 Reconsider, because no new grounds for reconsideration are presented before the Court.

21 **III. CONCLUSION**

22 Based upon the foregoing, the Court orders as follows:

- 23 1. The Court **DENIES** Plaintiff’s Motion for Reconsideration as to Michael Key as **MOOT**;
- 24 2. The Court **DENIES** Plaintiff’s Motion for Reconsideration;
- 25 3. The Court **REQUESTS** the CDCR permit Plaintiff to correspond with Damon Moore,
26 Lovoyne Macon, and Dewayne Thedford as potential witnesses in this matter, subject to
27 whatever rules are necessary to ensure the security of the prison facilities;
- 28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

4. Counsel for Defendants **SHALL** provide a copy of this order to the appropriate CDCR officials and, within 30 days of the date of this order SHALL file a report detailing CDCR's response.

IT IS SO ORDERED.

Dated: March 21, 2013

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE