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

CURTIS LE'BARRON GRAY,

1:10-cv-00357-LJO-GSA-PC

Plaintiff,

vs.

ORDER DENYING PLAINTIFF'S MOTION  
FOR RECONSIDERATION  
(Doc. 16.)

DR. ULIT, et al.,

Defendants.

**I. BACKGROUND**

Curtis Le'Barron Gray ("Plaintiff") is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On February 14, 2011, Plaintiff filed a motion for reconsideration of the undersigned's order of February 4, 2011 which adopted the Magistrate Judge's findings and recommendation to dismiss the Appeals Coordinator as a defendant to this action based on Plaintiff's failure to state a claim. (Doc. 16.)

**II. MOTION FOR RECONSIDERATION**

Rule 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

1 and citation omitted). In seeking reconsideration of an order, Local Rule 230(k) requires Plaintiff  
2 to show “what new or different facts or circumstances are claimed to exist which did not exist or  
3 were not shown upon such prior motion, or what other grounds exist for the motion.”

4 “A motion for reconsideration should not be granted, absent highly unusual circumstances,  
5 unless the district court is presented with newly discovered evidence, committed clear error, or if  
6 there is an intervening change in the controlling law,” Marlyn Nutraceuticals, Inc. v. Mucos Pharma  
7 GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citations omitted,  
8 and “[a] party seeking reconsideration must show more than a disagreement with the Court’s  
9 decision, and recapitulation . . .” of that which was already considered by the Court in rendering its  
10 decision,” U.S. v. Westlands Water Dist., 134 F.Supp.2d 1111, 1131 (E.D. Cal. 2001).

11 Plaintiff argues that the Magistrate’s findings and recommendation should not have been  
12 adopted, because Plaintiff states a claim against the Appeals Coordinator. Plaintiff argues that the  
13 Appeal Coordinator was deliberately indifferent because he failed to review Plaintiff’s medical chart  
14 and conduct a proper investigation before deciding not to process Plaintiff’s grievance as an  
15 emergency. In the findings and recommendations, the Magistrate Judge determined that Plaintiff’s  
16 allegation – that the Appeals Coordinator denied Plaintiff’s request for emergency treatment on the  
17 ground that Plaintiff’s medical needs did not warrant the relief sought, does not support a claim that  
18 the Appeals Coordinator acted with deliberate indifference. Plaintiff has not shown clear error or  
19 other meritorious grounds for relief, and has therefore not met his burden as the party moving for  
20 reconsideration. Marlyn Nutraceuticals, Inc., 571 F.3d at 880.

21 **III. CONCLUSION**

22 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion for  
23 reconsideration, filed on February 14, 2011, is DENIED.

24 IT IS SO ORDERED.

25 **Dated: May 24, 2011**

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