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6 **UNITED STATES DISTRICT COURT**
78 EASTERN DISTRICT OF CALIFORNIA
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10 JUAN CARLOS HERNANDEZ,

CASE NO. 1:10-cv-00817-SMS PC

11 v. Plaintiff,

ORDER DENYING MOTION FOR
RECONSIDERATION, WITH PREJUDICE,
AND DENYING MOTION FOR
APPOINTMENT OF COUNSEL

12 P. L. VASQUEZ, et al.,

(Doc. 8)

13 Defendants.
1415 Plaintiff Juan Carlos Hernandez, a state prisoner proceeding pro se, filed this action on May
16 11, 2010. Plaintiff utilized a form complaint for civil rights actions filed pursuant to 42 U.S.C.
17 § 1983, but sought to stay or terminate any future deportation proceeding so that he may seek
18 political asylum. Plaintiff alleged that he was a legal alien, and had received notice that an
19 immigration hold had been placed on him. On June 21, 2010, the Court dismissed the action for
20 failure to state a claim upon which relief may be granted. 28 U.S.C. § 1915A. On July 8, 2010,
21 Plaintiff filed a response, which the Court construes as a motion for reconsideration. Fed. R. Civ.
22 P. 60(b); Local Rule 230(j).23 Regardless of Plaintiff's concerns relating to his deportation to Mexico, deportation
24 proceedings are administrative in nature. The Eighth Amendment does not provide a basis for suit
25 on the facts asserted by Plaintiff. See e.g., Morgan v. Morgensen, 465 F.3d 1041, 1045 (9th Cir.
26 2006). Further, while habeas corpus relief may be available to Plaintiff in the future, because
27 Plaintiff is not currently in the custody of Immigration and Customs Enforcement (ICE), he may not
28 yet seek relief via a petition for habeas corpus. Campos v. INS, 62 F.3d 311, 314 (9th Cir. 1995).

1 Plaintiff's motion for reconsideration is DENIED, with prejudice, Fed. R. Civ. P. 60(b);
2 Local Rule 230(j), and Plaintiff's motion for the appointment of counsel in this case is DENIED,
3 Rand v. Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997).

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7 IT IS SO ORDERED.

8 **Dated: July 13, 2010**

9 /s/ Sandra M. Snyder
10 UNITED STATES MAGISTRATE JUDGE
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