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UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MICHAEL ROY JOHNSON,

1:10-cv-01164-SMS (HC)

Petitioner,

ORDER DENYING PETITIONER’S MOTION
FOR RECONSIDERATION

v.

[Doc. 33]

HECTOR A. RIOS,

Respondent.

_____ /

On June 18, 2010, Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The petition was transferred to this Court on June 23, 2010. Pursuant to 28 U.S.C. § 636(c)(1), the parties consented to the jurisdiction of the United States Magistrate Judge. Local Rule 305(b).

On March 29, 2011, the undersigned denied the petition for writ of habeas corpus and judgment was entered in favor of Respondent.

Now pending before the Court is Petitioner’s motion for reconsideration filed on April 13, 2011.

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.

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

5 “A motion for reconsideration should not be granted, absent highly unusual
6 circumstances, unless the district court is presented with newly discovered evidence, committed
7 clear error, or if there is an intervening change in the controlling law,” Marlyn Nutraceuticals,
8 Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations
9 marks and citations omitted, and “[a] party seeking reconsideration must show more than a
10 disagreement with the Court’s decision, and recapitulation . . .” of that which was already
11 considered by the Court in rendering its decision,” U.S. v. Westlands Water Dist., 134 F.Supp.2d
12 1111, 1131 (E.D. Cal. 2001).

13 The basis for Petitioner’s motion for reconsideration is his disagreement with the Court’s
14 decision denying the petition and the Court’s application of the law to his petition. Petitioner has
15 not shown clear error or other meritorious grounds for relief, and has therefore not met his
16 burden as the party moving for reconsideration. Marlyn Nutraceuticals, Inc., 571 F.3d at 880.
17 Petitioner’s disagreement is not sufficient grounds for relief from the order. Westlands Water
18 Dist., 134 F.Supp.2d at 1131. Petitioner’s motion for reconsideration is **HEREBY DENIED.**

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21 IT IS SO ORDERED.

22 **Dated: September 2, 2011**

/s/ Sandra M. Snyder
23 UNITED STATES MAGISTRATE JUDGE
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