

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

DUANE DIXON,

Plaintiff,

v.

DEPARTMENT OF CORRECTIONS AND
REHABILITATION, et al.,

Defendants.

CASE NO. 1:10-CV-01225-LJO-DLB PC

ORDER DENYING PLAINTIFF'S MOTION
FOR RECONSIDERATION

(DOC. 21)

Plaintiff Duane Dixon ("Plaintiff") is a prisoner in the custody of the California Department of Corrections and Rehabilitation ("CDCR"). Plaintiff was proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. On June 8, 2011, the Court dismissed Plaintiff's action for failure to state a claim. Pending before the Court is Plaintiff's motion for reconsideration, filed June 30, 2011. Doc. 21.

A court may relieve a party from a final judgment or order for, *inter alia*, mistake, inadvertence, surprise, or excusable neglect. Fed. R. Civ. P. 60(b)(1). Motions to reconsider are committed to the discretion of the trial court. *Rodgers v. Watt*, 722 F.2d 456, 460 (9th Cir. 1983) (en banc); *Combs v. Nick Garin Trucking*, 825 F.2d 437, 441 (D.C. Cir. 1987). A party seeking reconsideration must set forth facts or law of a strongly convincing nature to induce the court to reverse a prior decision. *See, e.g., Kern-Tulare Water Dist. v. City of Bakersfield*, 634 F. Supp. 656, 665 (E.D. Cal. 1986), *aff'd in part and rev'd in part on other grounds*, 828 F.2d 514 (9th Cir. 1987). This Court's Local Rule 230(j) requires a party seeking reconsideration to demonstrate "what new or different facts or circumstances are claimed to exist which did not

1 exist or were not shown upon such prior motion, or what other grounds exist for the motion.”

2 Plaintiff contends that he should be granted leave to amend. However, the Magistrate
3 Judge assigned to this action found that Plaintiff would be unable to cure the deficiencies in this
4 action even if he was afforded leave to amend. Findings and Recommendations, Doc. 15. The
5 undersigned agrees. Plaintiff has presented no new facts or circumstances that merit
6 reconsideration of the Court’s judgment in this action.

7 Accordingly, Plaintiff’s motion for reconsideration, filed June 30, 2011, is DENIED.
8 IT IS SO ORDERED.

9 **Dated: July 2, 2011**

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