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**UNITED STATES DISTRICT COURT**

EASTERN DISTRICT OF CALIFORNIA

TONY EDWARD POWELL,

1:10-cv-01272-DLB (HC)

Petitioner,

ORDER DENYING PETITIONER’S MOTION  
FOR RECONSIDERATION

v.

[Doc. 8]

HECTOR RIOS, Warden

Respondent.

On September 2, 2010, the instant petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 was dismissed because it did not allege grounds that would entitled Petitioner to relief and judgment was entered.<sup>1</sup>

On September 16, 2010, Petitioner filed a motion for reconsideration of the Court’s September 2, 2010 order.<sup>2</sup> 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 and citation omitted). In seeking reconsideration of an order,

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<sup>1</sup> Pursuant to 28 U.S.C. § 636(c)(1), Petitioner consented to the jurisdiction of the United States Magistrate Judge. Local Rule 305(b).

<sup>2</sup> On September 20, 2010, a duplicate copy of the same motion was filed in this Court.

1 Local Rule 230(j)(3) requires Plaintiff to show “what new or different facts or circumstances are  
2 claimed to exist which did not exist or were not shown upon such prior motion, or what other  
3 grounds exist for the motion.”

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

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

18 IT IS SO ORDERED.

19 **Dated: October 1, 2010**

**/s/ Dennis L. Beck**  
UNITED STATES MAGISTRATE JUDGE