

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ROBIN GILLEN STARR,

1:11-cv-02108-AWI-GSA-PC

Plaintiff,

vs.

ORDER DENYING PLAINTIFF'S MOTION
FOR RECONSIDERATION
(Doc. 43.)

CDCR,

Defendant.

I. BACKGROUND

Robin Gillen Starr (“Plaintiff”) is a state prisoner proceeding pro se in this civil rights action pursuant to 42 U.S.C. § 1983. On October 3, 2012, Plaintiff filed a motion for reconsideration of the undersigned’s Court’s order striking Plaintiff’s lodged supplemental complaint for failure to obtain leave of court. (Doc. 43.)

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 and citation omitted). In seeking reconsideration of an order, Local Rule 230(k) requires Plaintiff

1 to show “what new or different facts or circumstances are claimed to exist which did not exist or
2 were not shown upon such prior motion, or what other grounds exist for the motion.”

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

10 The basis of Plaintiff’s request for reconsideration is his disagreement with the Court’s
11 decision. Plaintiff has not shown clear error or other meritorious grounds for relief, and has therefore
12 not met his burden as the party moving for reconsideration. Marlyn Nutraceuticals, Inc., 571 F.3d
13 at 880. Plaintiff’s disagreement is not sufficient grounds for relief from the order. Westlands Water
14 Dist., 134 F.Supp.2d at 1131.

15 **III. CONCLUSION**

16 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion for
17 reconsideration, filed on October 3, 2012, is DENIED.

18
19 IT IS SO ORDERED.

20 **Dated: October 4, 2012**

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE