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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

GERALD LEE MILLER, JR.,
Plaintiff,
v.
DR. J. AKANNO, M.D.,
Defendant.

Case No. 1:12-cv-01013-LJO-SKO (PC)
ORDER DENYING MOTION FOR
RECONSIDERATION OF ORDER
DENYING LEAVE TO AMEND
(Doc. 57)

I. Procedural History

Plaintiff Gerald Lee Miller, Jr., a state prisoner proceeding pro se and in forma pauperis, filed this civil rights action pursuant to 42 U.S.C. § 1983 on June 22, 2012. This action for damages is proceeding on Plaintiff’s second amended complaint against Defendant J. Akanno, M.D. (“Defendant”), for violating Plaintiff’s right to medical care under the Eighth Amendment of the United States Constitution. The events at issue occurred at Kern Valley State Prison in Delano, California, and arise out of Defendant Akanno’s alleged failure to provide Plaintiff with adequate medical treatment for his stomach problem in 2012 and 2013.

On December 18, 2014, Plaintiff filed an objection to the Magistrate Judge’s order denying his motion for leave to file a third amended complaint adding a new party.¹ Fed. R. Civ. P. 72(a); Local Rule 303(c). Defendant did not file a response. Local Rule 303(d).

¹ An objection to a Magistrate Judge’s order brought pursuant Fed. R. Civ. P. 72(a) is treated as a motion for reconsideration. Local Rule 303(c).

1 **II. Legal Standard**

2 Reconsideration motions are committed to the discretion of the trial court. *Rodgers v.*
3 *Watt*, 722 F.2d 456, 460 (9th Cir. 1983) (en banc); *Combs v. Nick Garin Trucking*, 825 F.2d 437,
4 441 (D.C. Cir. 1987). A party seeking reconsideration must set forth facts or law of a strongly
5 convincing nature to induce the court to reverse a prior decision. *See e.g., Kern-Tulare Water*
6 *Dist. v. City of Bakersfield*, 634 F.Supp. 656, 665 (E.D. Cal. 1986), *aff'd in part and rev'd in part*
7 *on other grounds*, 828 F.2d 514 (9th Cir. 1987).

8 This Court reviews a motion to reconsider a Magistrate Judge's ruling under the "clearly
9 erroneous or contrary to law" standard set forth in 28 U.S.C. § 636(b)(1)(A) and Fed. R. Civ. P.
10 72(a). As such, the court may only set aside those portions of a Magistrate Judge's order that are
11 either clearly erroneous or contrary to law. Fed. R. Civ. P. 72(a); *see also Grimes v. City and*
12 *County of San Francisco*, 951 F.2d 236, 240 (9th Cir.1991) (discovery sanctions are non-
13 dispositive pretrial matters that are reviewed for clear error under Fed. R. Civ. P. 72(a)).

14 A magistrate judge's factual findings are "clearly erroneous" when the district court is left
15 with the definite and firm conviction that a mistake has been committed. *Security Farms v.*
16 *International Bhd. of Teamsters*, 124 F.3d 999, 1014 (9th Cir. 1997); *Green v. Baca*, 219 F.R.D.
17 485, 489 (C.D. Cal. 2003). The "'clearly erroneous' standard is significantly deferential."
18 *Concrete Pipe and Products of California, Inc. v. Construction Laborers Pension Trust for*
19 *Southern California*, 508 U.S. 602, 623, 113 S.Ct. 2264 (1993).

20 The "contrary to law" standard allows independent, plenary review of purely legal
21 determinations by the magistrate judge. *See Haines v. Liggett Group, Inc.*, 975 F.2d 81, 91 (3rd
22 Cir.1992); *Green*, 219 F.R.D. at 489; *see also Osband v. Woodford*, 290 F.3d 1036, 1041 (9th Cir.
23 2002). "An order is contrary to law when it fails to apply or misapplies relevant statutes, case law,
24 or rules of procedure." *Knutson v. Blue Cross & Blue Shield of Minn.*, 254 F.R.D. 553, 556 (D.
25 Minn. 2008); *Rathgaber v. Town of Oyster Bay*, 492 F.Supp.2d 130, 137 (E.D.N.Y. 2007); *Surles*
26 *v. Air France*, 210 F.Supp.2d 501, 502 (S.D.N.Y. 2001); *see Adolph Coors Co. v. Wallace*, 570
27 F.Supp. 202, 205 (N.D. Cal. 1983).

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1 “Pretrial orders of a magistrate under § 636(b)(1)(A) . . . are not subject to a de novo
2 determination. . . .” *Merritt v. International Bro. of Boilermakers*, 649 F.2d 1013, 1017 (5th Cir.
3 1981). “The reviewing court may not simply substitute its judgment for that of the deciding court.”
4 *Grimes*, 951 F.2d at 241; *see Phoenix Engineering & Supply v. Universal Elec.*, 104 F.3d 1137,
5 1141 (9th Cir. 1997) (“the clearly erroneous standard allows [for] great deference”). A district
6 court is able to overturn a magistrate judge’s ruling ““only if the district court is left with the
7 definite and firm conviction that a mistake has been made.”” *Computer Economics, Inc. v.*
8 *Gartner Group, Inc.*, 50 F.Supp.2d 980, 983 (S.D. Cal. 1999) (quoting *Weeks v. Samsung Heavy*
9 *Indus. Co., Ltd.*, 126 F.3d 926, 943 (7th Cir. 1997)). Nonetheless, “[m]otions for reconsideration
10 are disfavored, however, and are not the place for parties to make new arguments not raised in
11 their original briefs.” *Hendon v. Baroya*, 2012 WL 995757, at *1 (E.D. Cal. 2012) (citing
12 *Zimmerman v. City of Oakland*, 255 F.3d 734, 740 (9th Cir. 2001); *Northwest Acceptance Corp. v.*
13 *Lynnwood Equip., Inc.*, 841 F.2d 918, 925–26 (9th Cir. 1988)).

14 **III. Discussion and Order**

15 The Magistrate Judge denied Plaintiff’s motion to amend on the ground that the claim
16 Plaintiff sought to add against proposed-defendant Kim was not related to his claim against
17 Defendant Akanno within the meaning of Fed. R. Civ. P. 20, and therefore, joinder of the two
18 claims in this action is not proper. Plaintiff mischaracterizes the denial as one premised on failure
19 to state a claim; and he argues that as a pro se litigant, he is entitled to an opportunity to amend to
20 cure the deficiencies in his claim and the Magistrate Judge erred in “refusing” to point out the
21 deficiencies in his claim. *E.g., Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012); *Lopez v.*
22 *Smith*, 203 F.3d 1122, 1130 (9th Cir. 2000). (Doc. 57, p. 2.) This argument is inapposite.

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Based on Plaintiff's failure to demonstrate entitlement to relief from the order denying his motion to amend, his motion for reconsideration, filed on December 18, 2014, is HEREBY DENIED.

IT IS SO ORDERED.

Dated: January 15, 2015

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