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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MARLON JESSIE BLACHER,

Plaintiff,

v.

S. JOHNSON,

Defendants.

Case No. 1:12-cv-01159-EPG (PC)
ORDER DENYING PLAINTIFF’S MOTIONS
(ECF NOS. 170, 172, & 173)

Marlon Blacher (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. Both parties have consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c).¹ On December 26, 2018, Plaintiff filed what the Court construes as a motion for reconsideration of the Court’s order dated December 10,

¹ As Magistrate Judge Gary S. Austin noted, “[o]n July 30, 2012, Plaintiff filed a form consenting to the jurisdiction of a Magistrate Judge. (Doc. 5.) On October 15, 2013, Defendant Johnson filed a form consenting to the jurisdiction of a Magistrate Judge. (Doc. 26.) Subsequently, on October 30, 2013, Plaintiff filed a form declining the jurisdiction of a Magistrate Judge. (Doc. 27.) Plaintiff may not withdraw his consent in this manner. Once a civil case is referred to a magistrate judge under section 636(c), the reference can be withdrawn only by the district court, and only ‘for good cause shown on its own motion, or under extraordinary circumstances shown by any party.’ *Dixon v. Ylst*, 990 F.2d 478, 480 (9th Cir. 1993) (quoting *Fellman v. Fireman's Fund Ins. Co.*, 735 F.2d 55, 58 (2d Cir.1984)); 28 U.S.C. § 636(c)(6); Fed. R. Civ. P. 73(b). There is no absolute right, in a civil case, to withdraw consent to trial and other proceedings before a magistrate judge. *Dixon* at 480. Plaintiff has not shown any extraordinary circumstances to justify withdrawal of his consent.” (ECF No. 29, p. 1 n.1).

1 2018. (ECF No. 170). On that same day Plaintiff filed a petition that full disclosure of any
2 remedy/relief available to the Plaintiff regarding order be rendered forthwith. (ECF No. 172).
3 On January 2, 2019, Plaintiff filed a motion for reconsideration. (ECF No. 173).

4 Federal Rule of Civil Procedure 60(b) governs grounds for relief from an order:

5 On motion and just terms, the court may relieve a party or its legal
6 representative from a final judgment, order, or proceeding for the
7 following reasons: (1) mistake, inadvertence, surprise, or excusable
8 neglect; (2) newly discovered evidence that, with reasonable
9 diligence, could not have been discovered in time to move for a
10 new trial under Rule 59(b); (3) fraud (whether previously called
11 intrinsic or extrinsic), misrepresentation, or misconduct by an
opposing party; (4) the judgment is void; (5) the judgment has been
satisfied, released, or discharged; it is based on an earlier judgment
that has been reversed or vacated; or applying it prospectively is no
longer equitable; or (6) any other reason that justifies relief.

12 Fed. R. Civ. P. 60(b).

13 As to Rule 60(b)(6), Plaintiff “must demonstrate both injury and circumstances beyond his
14 control that prevented him from proceeding with the action in a proper fashion.” Harvest v.
15 Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and citation omitted).
16 Additionally, Rule 60(b)(6) “is to be used sparingly as an equitable remedy to prevent manifest
17 injustice and is to be utilized only where extraordinary circumstances prevented a party from
18 taking timely action to prevent or correct an erroneous judgment.” (Id.) (internal quotations
19 marks and citation omitted).

20 Plaintiff’s motions for reconsideration will be denied. Plaintiff has failed to set forth facts
21 or law that show that he meets any of the above-mentioned reasons for granting relief from the
22 order.

23 As to Plaintiff’s petition that full disclosure of any remedy/relief available to the Plaintiff
24 regarding order be rendered forthwith, it will also be denied. The Court is not Plaintiff’s counsel,
25 and will not advise him on how to proceed. Moreover, it appears that Plaintiff already knows
26 how to seek relief from an order. He filed a motion for reconsideration of the order he is
27 currently challenging, and has successfully appealed at least one prior court order (see ECF Nos.
28 9, 17, & 19).

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Accordingly, IT IS ORDERED that Plaintiff's motions for reconsideration and his petition that full disclosure of any remedy/relief available to the Plaintiff regarding order be rendered forthwith are DENIED.

IT IS SO ORDERED.

Dated: January 7, 2019

/s/ Eric P. Gray
UNITED STATES MAGISTRATE JUDGE