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7 UNITED STATES DISTRICT COURT
8 EASTERN DISTRICT OF CALIFORNIA
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10 ANTWOINE BEALER,

11 Plaintiff,

12 vs.

13 CORRECTIONAL OFFICER S. RIOS

14 and SERGEANT R. BRANNUM,

15 Defendants.
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1:12-cv-01516-DAD-EPG-PC

ORDER DENYING PLAINTIFF'S MOTION
FOR RECONSIDERATION
(ECF No. 168.)

17 **I. RELEVANT PROCEDURAL HISTORY**

18 Antwoine Bealer ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma*
19 *pauperis* with this civil rights action filed pursuant to 42 U.S.C. § 1983.

20 On June 2, 2016, the Court issued an order denying Plaintiff's motion for leave to
21 schedule and take Defendants' depositions, and motion for extension of time to serve
22 deposition subpoenas, or in the alternative, to excuse Plaintiff from the requirement to serve
23 deposition subpoenas. (ECF No. 146.) On July 5, 2016, Plaintiff filed a motion for
24 reconsideration of the Court's order. (ECF No. 168.)

25 **II. MOTION FOR RECONSIDERATION**

26 Rule 60(b) allows the Court to relieve a party from an order for "(1) mistake,
27 inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with
28 reasonable diligence, could not have been discovered in time to move for a new trial under

1 Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or
2 misconduct by an opposing party; (4) the judgment is void; or (6) any other reason that justifies
3 relief.” Fed. R. Civ. P. 60(b). Rule 60(b)(6) “is to be used sparingly as an equitable remedy to
4 prevent manifest injustice and is to be utilized only where extraordinary circumstances . . .”
5 exist. Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and
6 citation omitted). The moving party “must demonstrate both injury and circumstances beyond
7 his control” Id. (internal quotation marks and citation omitted). In seeking
8 reconsideration of an order, Local Rule 230(k) requires Plaintiff to show “what new or different
9 facts or circumstances are claimed to exist which did not exist or were not shown upon such
10 prior motion, or what other grounds exist for the motion.”

11 “A motion for reconsideration should not be granted, absent highly unusual
12 circumstances, unless the district court is presented with newly discovered evidence, committed
13 clear error, or if there is an intervening change in the controlling law,” Marlyn Nutraceuticals,
14 Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations
15 marks and citations omitted, and “[a] party seeking reconsideration must show more than a
16 disagreement with the Court’s decision, and recapitulation” of that which was already
17 considered by the Court in rendering its decision,” U.S. v. Westlands Water Dist., 134
18 F.Supp.2d 1111, 1131 (E.D. Cal. 2001). To succeed, a party must set forth facts or law of a
19 strongly convincing nature to induce the court to reverse its prior decision. See Kern-Tulare
20 Water Dist. v. City of Bakersfield, 634 F.Supp. 656, 665 (E.D. Cal. 1986), affirmed in part and
21 reversed in part on other grounds, 828 F.2d 514 (9th Cir. 1987).

22 Discussion

23 The Court’s order issued on June 2, 2016 denied Plaintiff leave to schedule and hold
24 depositions in this case because Plaintiff failed to meet “certain requirements, including the
25 requirement to file proof, such as a copy of his trust account statement, that he is able to pay, in
26 advance of the depositions, for the services of a court officer, the recording of the depositions,
27 and any required witness fees, pursuant to Fed. R. Civ. P. 30.” (ECF No. 146 at 2:11-14.)
28 Plaintiff argues that he substantially complied with the Court’s orders requiring him to submit

1 evidence that he was able to arrange and pay for Defendants' depositions. Plaintiff also argues
2 that he was not allowed sufficient time to make arrangements for depositions, and that the
3 Court was not responsive to his inquiries. The Court's record for this case shows otherwise.
4 Plaintiff has not set forth facts or law of a strongly convincing nature in his motion for
5 reconsideration to induce the Court to reverse its prior decision. Therefore, the motion for
6 reconsideration shall be denied.

7 **III. CONCLUSION**

8 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for
9 reconsideration, filed on July 5, 2016, is DENIED.

10 IT IS SO ORDERED.

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12 Dated: July 21, 2016

13 /s/ Eric P. Gray
14 UNITED STATES MAGISTRATE JUDGE
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