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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

ANTOINE BEALER,  
Plaintiff,  
vs.  
KVSP WARDEN, et al.,  
Defendants.

1:12-cv-01516-AWI-GSA-PC  
ORDER DENYING PLAINTIFF’S MOTION  
FOR RECONSIDERATION  
(Doc. 32.)

**I. BACKGROUND**

Antwoine Bealer (“Plaintiff”) is a state prisoner proceeding pro se and in forma pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this action on September 14, 2012. (Doc. 1.)

On September 30, 2014, the court issued an order denying Plaintiff’s motion for preliminary injunction for lack of jurisdiction. (Doc. 30.) On October 17, 2014, Plaintiff filed a motion for reconsideration. (Doc. 32.)

1 **II. MOTION FOR RECONSIDERATION**

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

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

26 Plaintiff’s arguments are unpersuasive. Plaintiff has not set forth facts or law of a  
27 strongly convincing nature to induce the court to reverse its prior decision. However, Plaintiff  
28 is advised that he is not precluded from renewing the motion at a later stage of the proceedings.

1 **III. CONCLUSION**

2 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for  
3 reconsideration, filed on October 17, 2014, is DENIED.

4  
5 IT IS SO ORDERED.

6 Dated: November 4, 2014

/s/ Gary S. Austin  
7 UNITED STATES MAGISTRATE JUDGE