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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 ANTOINE BEALER,

12 Plaintiff,

13 vs.

14 R. BRANNUM, et al.,

15 Defendants.
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1:12-cv-01516-AWI-GSA-PC

ORDER DENYING PLAINTIFF'S SECOND
MOTION FOR RECONSIDERATION OF
COURT'S ORDER OF APRIL 23, 2015, WITH
PREJUDICE
(Doc. 66.)

19 **I. RELEVANT PROCEDURAL HISTORY**

20 Antoine Bealer ("Plaintiff") is a state prisoner proceeding pro se and in forma pauperis
21 with this civil rights action pursuant to 42 U.S.C. § 1983. On September 14, 2012, Plaintiff
22 filed the Complaint commencing this action. (Doc. 1.) This case now proceeds with the Fourth
23 Amended Complaint filed on March 28, 2014, against defendants Rios and Brannum for use of
24 excessive force in violation of the Eighth Amendment. (Doc. 21.)

25 On March 2, 2015, the court issued a Discovery and Scheduling Order establishing
26 pretrial deadlines for the parties, including a deadline of November 2, 2015, to complete
27 discovery, and a deadline of January 11, 2016, to file dispositive motions. (Doc. 45.) This case
28 is now in the discovery phase.

1 On June 19, 2015, Plaintiff filed objections to the court's order issued on April 23,
2 2015, which denied Plaintiff's request for legal recognition. (Doc. 63.) The court construes
3 Plaintiff's objections as a second motion for reconsideration of the court's order of April 23,
4 2015.¹

5 **II. MOTION FOR RECONSIDERATION**

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

19 "A motion for reconsideration should not be granted, absent highly unusual
20 circumstances, unless the district court is presented with newly discovered evidence, committed
21 clear error, or if there is an intervening change in the controlling law," Marlyn Nutraceuticals,
22 Inc. v. Mucos Pharma GmbH & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations
23 marks and citations omitted, and "[a] party seeking reconsideration must show more than a
24 disagreement with the Court's decision, and recapitulation . . ." of that which was already
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26 ¹ On April 20, 2015, Plaintiff filed a request for legal recognition, in which he requested
27 privileges at the prison based on the fact that he represents himself in this case. (Doc. 49.) On April 23, 2015, the
28 court denied Plaintiff's request based on the court's lack of jurisdiction to issue the order sought by Plaintiff.
(Doc. 50.) On June 1, 2015, Plaintiff filed a motion for reconsideration of the court's order of April 23, 2015.
(ECF No. 63.) The motion for reconsideration was denied on June 2, 2015. (ECF No. 64.)

1 considered by the Court in rendering its decision,” U.S. v. Westlands Water Dist., 134
2 F.Supp.2d 1111, 1131 (E.D. Cal. 2001). To succeed, a party must set forth facts or law of a
3 strongly convincing nature to induce the court to reverse its prior decision. See Kern-Tulare
4 Water Dist. v. City of Bakersfield, 634 F.Supp. 656, 665 (E.D. Cal. 1986), affirmed in part and
5 reversed in part on other grounds, 828 F.2d 514 (9th Cir. 1987).

6 Here, Plaintiff has not set forth facts or law of a strongly convincing nature in his
7 motion for reconsideration to induce the court to reverse its prior decision. Therefore, the
8 motion for reconsideration shall be denied, with prejudice.

9 **III. CONCLUSION**

10 Based on the foregoing, IT IS HEREBY ORDERED that:

11 1. Plaintiff’s motion for reconsideration, filed on June 19, 2015, is DENIED, with
12 prejudice; and

13 2. The court shall not consider any further objections of, or motions for
14 reconsideration of, the court’s order of April 23, 2015 which denied Plaintiff’s request for legal
15 recognition.

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17 IT IS SO ORDERED.

18 Dated: June 22, 2015

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE