

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**

DION ANDERSON,

Plaintiff,

v.

JERRY BROWN, et al.,

Defendants.

Case No. 1:12-cv-01839 AWI DLB PC

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION**

[ECF No. 36]

Plaintiff Dion Anderson ("Plaintiff") is a California state prisoner proceeding pro se in this civil action pursuant to 42 U.S.C. § 1983.

On September 25, 2014, Plaintiff filed a motion for appointment of counsel. On February 2, 2015, the Court denied Plaintiff's motion. On February 23, 2015, Plaintiff filed a motion for reconsideration of the Court's order denying appointment of counsel.

**DISCUSSION**

Rule 60(b) allows the Court to relieve a party from an order for "(1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party; (4) the judgment is void; or (6) any other reason that justifies relief." Fed.R.Civ.P. 60(b). Rule 60(b)(6) "is to be used sparingly as an equitable remedy to prevent manifest injustice and is to be utilized

1 only where extraordinary circumstances ..." exist. Harvest v. Castro, 531 F.3d 737, 749 (9th Cir.  
2 2008) (internal quotations marks and citation omitted). The moving party "must demonstrate both  
3 injury and circumstances beyond his control...." Id. (internal quotation marks and citation omitted).  
4 In seeking reconsideration of an order, Local Rule 230(k) requires Plaintiff to show "what new or  
5 different facts or circumstances are claimed to exist which did not exist or were not shown upon  
6 such prior motion, or what other grounds exist for the motion."

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

17 Here, Plaintiff requests that the Court reconsider the order denying Plaintiff's motion for  
18 appointment of counsel. Plaintiff fails to meet the above standard. As previously stated, Plaintiff's  
19 case is not exceptional. Further, at this stage in the proceedings, the Court cannot make a  
20 determination that Plaintiff is likely to succeed on the merits, and based on a review of the record in  
21 this case, the Court does not find that Plaintiff cannot adequately articulate his claims.

## 22 ORDER

23 Accordingly, IT IS HEREBY ORDERED that Plaintiff's motion for reconsideration is  
24 DENIED.

25  
26 IT IS SO ORDERED.

27 Dated: March 11, 2015

  
28 SENIOR DISTRICT JUDGE