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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 LONNIE CHARLES BROWN,

12 Plaintiff,

13 vs.

14 MATTHEW CATE, et al.,

15 Defendants.
16

1:13-cv-00077-GSA-PC

ORDER DENYING MOTION FOR
RECONSIDERATION
(Doc. 20.)

17 Lonnie Charles Brown ("Plaintiff") is a state prisoner proceeding pro se in this civil
18 rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this
19 action on January 6, 2013. (Doc. 1.)

20 On February 19, 2013, Plaintiff consented to Magistrate Judge jurisdiction in this action
21 pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (Doc. 3.)
22 Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of
23 California, the undersigned shall conduct any and all proceedings in the case until such time as
24 reassignment to a District Judge is required. Local Rule Appendix A(k)(3).

25 On May 8, 2014, the court issued an order dismissing Plaintiff's Complaint for failure
26 to state a claim, with leave to file an amended complaint within thirty days. (Doc. 17.) The
27 thirty-day deadline expired, and Plaintiff failed to comply with the order or otherwise respond
28 to the order. (Court Record.) On June 18, 2014, the undersigned issued an order dismissing

1 this action for failure to state a claim, and the court entered judgment, closing this case. (Docs.
2 18, 19.) On July 14, 2014, Plaintiff filed a motion for reconsideration of the dismissal order
3 and judgment. (Doc. 20.)

4 **II. MOTION FOR RECONSIDERATION**

5 Rule 60(b)(6) allows the Court to relieve a party from an order for any reason that
6 justifies relief. Rule 60(b)(6) “is to be used sparingly as an equitable remedy to prevent
7 manifest injustice and is to be utilized only where extraordinary circumstances . . .” exist.
8 Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and citation
9 omitted). The moving party “must demonstrate both injury and circumstances beyond his
10 control . . .” Id. (internal quotation marks and citation omitted). In seeking reconsideration of
11 an order, Local Rule 230(k) requires Plaintiff to show “what new or different facts or
12 circumstances are claimed to exist which did not exist or were not shown upon such prior
13 motion, or what other grounds exist for the motion.”

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

25 **Plaintiff’s Motion**

26 Plaintiff requests reconsideration of the court’s order dismissing this case, asserting that
27 he was unable to comply with the court’s May 8, 2014 order because the order was stolen from
28 his cell by correctional officers. Plaintiff claims that he “previously composed a notice to your

1 Eastern District Court requesting a reissue of that order as well as a[n] extended time for reply
2 in accordance (*sic*) to your order.” (Doc. 20 at 1:14-18.)

3 Plaintiff has not set forth facts or law of a strongly convincing nature to induce the court
4 to reverse its prior decision. Taking as true Plaintiff’s assertions in the motion for
5 reconsideration, Plaintiff did not use due diligence in responding to the court’s order of May 8,
6 2014. Plaintiff acknowledges that he received the court’s order and knew that he had a court
7 deadline to comply with the order. Plaintiff also asserts that he prepared a request for the court
8 to provide him with another copy of the order, and for an extension of time to comply with the
9 order. However, Plaintiff does not assert that he mailed the request to the court, and the court
10 has no record of receipt of such request. For these reasons, Plaintiff’s motion for
11 reconsideration shall be denied.

12 **III. CONCLUSION**

13 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion for
14 reconsideration, filed on July 14, 2014, is DENIED.

15 IT IS SO ORDERED.

16 Dated: July 25, 2014

17 /s/ Gary S. Austin
18 UNITED STATES MAGISTRATE JUDGE