

1 Fed. R. Civ. P. 72(a).

2 Because Petitioner consented to magistrate judge jurisdiction pursuant to 28 U.S.C. § 636(c),
3 Rule 72 of the Federal Rules of Civil Procedure is not applicable because the Court’s May 15, 2013,
4 was dispositive which resolved the case. Therefore, the Court will construe Petitioner’s “objections”
5 as a motion for reconsideration pursuant to Rule 60(b) of the Federal Rules of Civil Procedure.

6 Rule 60(b)(6) permits a court to relief a party from an order for “any reason that justifies
7 relief.” Fed. R. Civ. P. 60(b)(6). 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 exist.” Harvest
9 v. Castro, 531 F.3d 737, 749 (9th Cir. 2008). The moving party must demonstrate both injury and
10 circumstances beyond his control. Id.

11 “A motion for reconsideration should not be granted, absent highly unusual circumstances,
12 unless the district court is presented with newly discovered evidence, committed clear error, or if there
13 is an intervening change in the controlling law,” Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH
14 & Co., 571 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citations omitted, and “[a]
15 party seeking reconsideration must show more than a disagreement with the Court’s decision, and
16 recapitulation . . . ” of that which was already considered by the Court in rendering its decision,” U.S.
17 v. Westlands Water Dist., 134 F.Supp.2d 1111, 1131 (E.D. Cal. 2001).

18 **B. Analysis**

19 Plaintiff disagrees with the Court’s decision regarding the merits of the order dismissing the
20 petition. In reviewing Petitioner’s petition pursuant to Rule 4 of Rules Governing Section 2254 cases,
21 the Court carefully considered Petitioner’s allegations, construed the allegations liberally in light of
22 Petitioner’s pro se prisoner status, and explained in a detailed order why the petition complaint failed
23 to state a claim under section 2254. Although Petitioner maintains that he seeks to have false
24 information removed from his central file which has had a direct effect on his custody level,
25 Petitioner’s allegations do not support a claim for relief under section 2254.

26 Reconsideration is not a vehicle by which to obtain a second bite at the apple; it is reserved for
27 extraordinary circumstances. Westlands Water Dist., 134 F.Supp.2d at 1131; see also In re Pacific Far
28 East Lines, Inc., 889 F.2d 242, 250 (9th Cir. 1989) (Rule 60(b)(6) may provide relief where parties

1 were confronted with extraordinary circumstances but it does not provide a second chance for parties
2 who made deliberate choices). Petitioner's disagreement with the Court's decision is not grounds for
3 reconsideration, and his motion for reconsideration shall be denied, with prejudice.

4 **II.**

5 **ORDER**

6 Based on the foregoing, it is HEREBY ORDERED that Petitioner's motion for reconsideration
7 is DENIED, with prejudice.

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9 IT IS SO ORDERED.

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11 Dated: July 22, 2013

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UNITED STATES MAGISTRATE JUDGE