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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 TONY LEE HILL,

12 Plaintiff,

13 vs.

14 CDCR, et al.,

15 Defendants.
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1:14-cv-00002-LJO-GSA-PC

ORDER DENYING MOTION FOR
RECONSIDERATION
(Doc. 33.)

17 **I. BACKGROUND**

18 Tony Lee Hill ("Plaintiff") is a state prisoner in the custody of the California
19 Department of Corrections and Rehabilitation (CDCR), proceeding pro se and in forma
20 pauperis with this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint
21 commencing this action on January 2, 2014. (Doc. 1.) On January 21, 2014, Plaintiff filed the
22 First Amended Complaint. (Doc. 14.) On February 3, 2014, Plaintiff filed a motion for leave
23 to amend the complaint. (Doc. 16.) The court granted Plaintiff's motion, and the Second
24 Amended Complaint was filed on February 3, 2014. (Docs. 19, 20.) On March 3, 2014 and
25 March 10, 2014, Plaintiff filed motions to amend the complaint, which are pending. (Docs. 24,
26 27.) On March 6, 2014, the court issued an order revoking Plaintiff's in forma pauperis status
27 under 28 U.S.C. § 1915(g) and ordered Plaintiff to pay the \$400.00 filing fee for this action in
28 full within thirty days. (Doc. 26.)

1 On March 21, 2014, Plaintiff filed a motion for reconsideration of the court's March 6,
2 2014 order. (Doc. 33.) Plaintiff's motion for reconsideration is now before the court.

3 **II. MOTION FOR RECONSIDERATION**

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

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

24 **Discussion**

25 Plaintiff disagrees with the court's finding in the March 6, 2014 order finding that he
26 was not in imminent danger at the time he filed this action. Plaintiff argues that his life is
27 presently in danger because Correctional Officer Barajas, who tampered with Plaintiff's food
28 for over five months, is now working in the gun tower outside of the building where Plaintiff is

1 housed. Plaintiff argues that his complaint alleges that “defendants have served him reduced
2 portions of food, rotten fruit, and bread bitten by a rodent,” and food tampering can lead to
3 something else more dangerous. (Doc. 33 at 2:1-9.)

4 Plaintiff has not set forth facts or law of a strongly convincing nature to induce the court
5 to reverse its prior decision. Therefore, Plaintiff’s motion for reconsideration shall be denied.

6 **III. CONCLUSION**

7 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff’s motion for
8 reconsideration, filed on March 21, 2014, is DENIED.

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10 IT IS SO ORDERED.

11 Dated: March 24, 2014

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

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