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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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| FEDERICO ROSAS, Plaintiff, v. D, DAVEY, et al., Defendants. | Case No. 1:14-cv-00611 DLB ORDER DENYING PLAINTIFF’S MOTION FOR RELIEF FROM JUDGMENT (Document 18) |
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Plaintiff Federico Rosas (“Plaintiff”) is a California state prisoner proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff filed this action on April 24, 2014. Pursuant to Court order, he filed his First Amended Complaint (“FAC”) on August 11, 2014.¹

On January 30, 2015, the Court dismissed the FAC without leave to amend and entered judgment.

On February 9, 2015, Plaintiff filed the instant motion to vacate the judgment pursuant to Federal Rule of Civil Procedure 59(e).

DISCUSSION

“A motion for reconsideration under Rule 59(e) ‘should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence,

¹ Plaintiff consented to the jurisdiction of the United States Magistrate Judge on May 9, 2014.

1 committed clear error, or if there is an intervening change in the controlling law.” McDowell v.
2 Calderon, 197 F.3d 1253, 1254 (9th Cir.1999) (internal citation omitted).

3 In this case, the Court screened Plaintiff’s FAC and explained why his allegations were
4 insufficient. As to his claim that he had been psychologically tormented, the Court explained that
5 absent physical injury, a prisoner is barred from pursuing claims for mental and emotional injury.
6 42 U.S.C. § 1997e(e); Oliver v. Keller, 289 F.3d 623, 625-628 (9th Cir. 2002).

7 Plaintiff disagrees with the Court’s finding, and first argues that the Court “softened” his
8 claims “to the point of making it seem minimize[d] and in favor of the named defendants.” EFC
9 No. 18, at 1. While Plaintiff may perceive the Court’s summary differently, the Court simply
10 repeated Plaintiff’s factual allegations and arguments.

11 Plaintiff also disagrees with the Court’s holding that he could not pursue a claim for
12 damages based on mental or emotional injury in the absence of a physical injury. He alleges that
13 he suffered “serious and extensive mental pain lasting to the present.” ECF No. 18, at 1. Again,
14 however, where a section 1983 plaintiff seeks to recover damages for mental and emotional
15 injuries, he cannot do so without at least a *de minimus* physical injury. Pierce v. County of
16 Orange, 526 F.3d 1190, 1124 (9th Cir. 2008); Oliver, 289 F.3d at 628. If Plaintiff had stated other
17 cognizable Constitutional claims that were not based on his psychological injuries, i.e., a denial of
18 access to the courts, those claims would not have been barred. He did not do so, however.

19 Finally, Plaintiff suggests that intentional infliction of mental stress is actionable under
20 California law. He is correct. However, absent a federal claim, the Court does not have
21 supplemental jurisdiction over any state law claims. 28 U.S.C. § 1367(c)(3); Parra v. PacifiCare
22 of Az., Inc., 715 F.3d 1146, 1156 (9th Cir. 2013); Herman Family Revocable Trust v. Teddy Bear,
23 254 F.3d 802, 805 (9th Cir. 2001).

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ORDER

For the above reasons, Plaintiff's motion for relief from judgment is DENIED.

IT IS SO ORDERED.

Dated: February 22, 2015

/s/ Dennis L. Beck
UNITED STATES MAGISTRATE JUDGE