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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF CALIFORNIA

7
8 MICHAEL A. SAAVEDRA,

9 Plaintiff,

10 vs.

11 SCOTT KERNAN, et al.,

12 Defendants.

1:14-cv-00870-GSA-PC

ORDER DENYING PLAINTIFF'S MOTION
FOR RECONSIDERATION
(Doc. 11.)

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14 **I. RELEVANT PROCEDURAL HISTORY**

15 Michael A. Saavedra ("Plaintiff") is a state prisoner proceeding pro se with this civil
16 rights action filed pursuant to 42 U.S.C. § 1983. Plaintiff filed the Complaint commencing this
17 action on July 25, 2013, in the Sacramento Division of the U.S. District Court for the Eastern
18 District of California. (Doc. 1.)

19 On August 12, 2013, Plaintiff consented to Magistrate Judge jurisdiction in this action
20 pursuant to 28 U.S.C. § 636(c), and no other parties have made an appearance. (Doc. 4.)
21 Therefore, pursuant to Appendix A(k)(4) of the Local Rules of the Eastern District of
22 California, the Magistrate Judge shall conduct any and all proceedings in the case until such
23 time as reassignment to a District Judge is required. Local Rule Appendix A(k)(3).¹

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25 ¹ On August 12, 2013, Plaintiff filed a form consenting to the jurisdiction of a Magistrate Judge. (Doc.
26 4.) Subsequently, on July 7, 2014, Plaintiff filed a form declining the jurisdiction of a Magistrate Judge. (Doc.
27 12.) Plaintiff may not withdraw his consent in this manner. Once a civil case is referred to a magistrate judge
28 under section 636(c), the reference can be withdrawn only by the district court, and only "for good cause shown on
its own motion, or under extraordinary circumstances shown by any party." Dixon v. Ylst, 990 F.2d 478, 480 (9th
Cir. 1993) (quoting Fellman v. Fireman's Fund Ins. Co., 735 F.2d 55, 58 (2d Cir.1984)); 28 U.S.C. § 636(c)(6);
Fed. R. Civ. P. 73(b). There is no absolute right, in a civil case, to withdraw consent to trial and other proceedings
before a magistrate judge. Dixon at 480. In this case, Plaintiff has not shown good cause or extraordinary
circumstances for the court to withdraw the reference of this case to a Magistrate Judge.

1 On June 9, 2014, the case was transferred to the Fresno Division court. (Doc. 9.) On
2 July 7, 2014, Plaintiff filed a motion for consideration of the order transferring the case. (Doc.
3 11.)

4 **II. MOTION FOR RECONSIDERATION**

5 Rule 60(b) allows the Court to relieve a party from an order for “(1) mistake,
6 inadvertence, surprise, or excusable neglect; (2) newly discovered evidence that, with
7 reasonable diligence, could not have been discovered in time to move for a new trial under
8 Rule 59(b); (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or
9 misconduct by an opposing party; (4) the judgment is void; or (6) any other reason that justifies
10 relief.” Fed. R. Civ. P. 60(b). Rule 60(b)(6) “is to be used sparingly as an equitable remedy to
11 prevent manifest injustice and is to be utilized only where extraordinary circumstances . . .”
12 exist. Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotations marks and
13 citation omitted). The moving party “must demonstrate both injury and circumstances beyond
14 his control” Id. (internal quotation marks and citation omitted). In seeking
15 reconsideration of an order, Local Rule 230(k) requires Plaintiff to show “what new or different
16 facts or circumstances are claimed to exist which did not exist or were not shown upon such
17 prior motion, or what other grounds exist for the motion.”

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

1 Plaintiff's arguments are unpersuasive. As Plaintiff was advised in the court's transfer
2 order of June 9, 2014, "[t]wenty-three of the 26 named defendants work at CSP in Corcoran,"
3 which is located within the Fresno Division of the Eastern District of California. (Doc. 9 at
4 2:14.) Moreover, the events upon which this action is based occurred at CSP in Corcoran,
5 where Plaintiff is presently incarcerated. These facts alone are sufficient to demonstrate that
6 the transfer was appropriate under 28 U.S.C. § 1391(b) (a civil action "may be brought in (1) a
7 judicial district in which any defendant resides, if all defendants are residents of the State in
8 which the district is located, (2) a judicial district in which a substantial part of the events or
9 omissions giving rise to the claim occurred, or a substantial part of property that is the subject
10 of the action is situated, or (3) if there is no district in which an action may otherwise be
11 brought as provided in this action, any judicial district in which any defendant is subject to the
12 court's personal jurisdiction with respect to such action.") Plaintiff has not set forth facts or
13 law of a strongly convincing nature to induce the court to reverse its prior decision. Therefore,
14 Plaintiff's motion for reconsideration shall be denied.

15 **III. CONCLUSION**

16 Based on the foregoing, IT IS HEREBY ORDERED that Plaintiff's motion for
17 reconsideration, filed on July 7, 2014, is DENIED.

18
19 IT IS SO ORDERED.

20 Dated: July 9, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE