



1 filed a motion for reconsideration of the undersigned’s September 17, 2019 order (Doc. No. 147).  
2 (Doc. No. 149.) The motion for reconsideration also includes plaintiff’s untimely objections to  
3 the February 14, 2019 findings and recommendations. (*Id.* at 3–6.)

4 Federal Rule of Civil Procedure 60(b) provides that “the court may relieve a party . . .  
5 from a final judgment, order, or proceeding for the following reasons: (1) mistake, inadvertence,  
6 surprise, or excusable neglect; (2) newly discovered evidence that, with reasonable diligence,  
7 could not have been discovered in time to move for a new trial under Rule 59(b); . . . or (6) any  
8 other reason justifying relief.” Fed. R. Civ. P. 60(b). “A motion for reconsideration should not  
9 be granted, absent highly unusual circumstances, unless the district court is presented with newly  
10 discovered evidence, committed clear error, or if there is an intervening change in the controlling  
11 law,” and it “may not be used to raise arguments or present evidence for the first time when they  
12 could reasonably have been raised earlier in the litigation.” *Marlyn Nutraceuticals, Inc. v. Mucos*  
13 *Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009) (internal quotation marks and citations  
14 omitted). In seeking reconsideration of an order, Local Rule 230 requires a party to show “what  
15 new or different facts or circumstances are claimed to exist which did not exist or were not shown  
16 upon such prior motion, or what other grounds exist for the motion.” L.R. 230(j)(3).

17 “A party seeking reconsideration must show more than a disagreement with the Court’s  
18 decision, and recapitulation” of that which was already considered by the court in rendering its  
19 decision.” *United States v. Westlands Water Dist.*, 134 F. Supp. 2d 1111, 1131 (E.D. Cal. 2001).  
20 To succeed, a party must set forth facts or law of a strongly convincing nature to induce the court  
21 to reverse its prior decision. *See Kern-Tulare Water Dist. v. City of Bakersfield*, 634 F. Supp.  
22 656, 665 (E.D. Cal. 1986), *rev’d in part on other grounds*, 828 F.2d 514 (9th Cir. 1987).

23 In his motion for reconsideration, plaintiff argues that he “never received a response from  
24 the court on key motions . . . that proved the plaintiff’s access to the law library was indeed  
25 limited . . . [and that his various requests were] made in good faith and not as a delay tactic.”  
26 (Doc. No. 149 at 1.) As noted in the undersigned’s September 17, 2019 order, plaintiff did not  
27 and still has not explained why law library access was necessary in order to set forth any  
28 objections he might have had to the February 14, 2019 findings and recommendations. (*See* Doc.

1 No. 147 at 2 n.1.) Moreover, even if the court were to consider plaintiff's alleged limited access  
2 to the law library, plaintiff had more than sufficient time—more than seven months—to file his  
3 objections before the court adopted the findings and recommendations, and he failed to set forth  
4 any efforts on his part to comply with the deadlines for filing those objections set by the court.  
5 After plaintiff requested extensions of time to file his objections, the magistrate judge granted  
6 plaintiff until April 30, 2019 to do so. (Doc. No. 136 at 3.) Rather than filing objections within  
7 that timeframe, plaintiff filed additional motions asking the court to delay its ruling, and then  
8 seeking appointment of counsel. (Doc. Nos. 137–140, 144.) Plaintiff was provided generous  
9 extensions of time with which he failed to comply. Plaintiff has failed to demonstrate any basis,  
10 excusable neglect or otherwise, justifying the granting of reconsideration.

11 As noted, plaintiff's untimely objections to the magistrate judge's February 14, 2019  
12 findings and recommendations are attached as part of his motion for reconsideration. The court  
13 will exercise its discretion and consider plaintiff's untimely objections. In objecting to the  
14 findings and recommendations, plaintiff argues that summary judgment was not appropriate on  
15 plaintiff's due process claim brought against defendants Lundy and Schuyler relating to plaintiff's  
16 rules violation hearing. (Doc. No. 149 at 3–6.) More specifically, plaintiff contends that his due  
17 process rights were violated because he was not: afforded an impartial hearing officer; allowed to  
18 call witnesses at the hearing; or provided copies of the rules violation report. (*Id.* at 4.) The  
19 undisputed facts before the court on summary judgment, however, demonstrate that: (1) plaintiff  
20 had not had any interactions with defendant Schuyler, the hearing officer, before the hearing on  
21 the rules violation report; (2) defendant Schuyler granted plaintiff's request for the attendance of  
22 inmate witnesses, but those witnesses were not summoned by plaintiff for the hearing; and (3)  
23 plaintiff acknowledged receiving a written copy of the rules violation report more than twenty-  
24 four hours before the disciplinary hearing. (*See* Doc. No. 105-4, Ex. B at 3; *id.*, Ex. C at 31.) As  
25 such, and as noted by the magistrate judge, plaintiff was provided the opportunity to present  
26 evidence in his defense and received all of the procedural due process to which he was entitled at  
27 the prison rules violation hearing held on June 30, 2011. (Doc. No. 128 at 8–13.)

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1 Plaintiff's objections attached to his motion for reconsideration merely reiterate arguments  
2 previously presented and considered by the court. They provide no basis upon which to question  
3 the conclusions reached in the February 14, 2019 findings and recommendations nor in the  
4 undersigned September 17, 2019 order adopting those findings and recommendations and  
5 granting defendants' motion for summary judgment. Plaintiff's mere disagreement with the  
6 court's decision is not grounds for reconsideration. *United States v. Westlands Water Dist.*, 134  
7 F. Supp. 2d at 1131.

8 Accordingly, plaintiff's motion for reconsideration (Doc. No. 149) is denied.

9 IT IS SO ORDERED.

10 Dated: June 22, 2020

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13 UNITED STATES DISTRICT JUDGE  
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