

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA  
10

11 MIGUEL F. SIFUENTES,

12 Plaintiff,

13 vs.

14 OLA, et al.,

15 Defendants.  
16  
17  
18

**1:16-cv-00241-DAD-GSA-PC**

**ORDER DENYING MOTION FOR  
RECONSIDERATION  
(ECF No. 60.)**

19 **I. BACKGROUND**

20 Miguel G. Sifuentes (“Plaintiff”) is a prisoner proceeding *pro se* with this civil rights  
21 action pursuant to 42 U.S.C. § 1983. This case now proceeds with Plaintiff’s First Amended  
22 Complaint filed on April 26, 2017, against defendant Dr. Ola (“Defendant”) for failure to provide  
23 adequate medical care, in violation of the Eighth Amendment. (ECF No. 21.)

24 On November 16, 2021, the court granted Plaintiff’s motion for a 60-day extension of  
25 time to file a response to Defendant Ola’s motion for summary judgment. (ECF No. 61.) On the  
26 same date, November 16, 2021, Defendant Ola filed an opposition to Plaintiff’s motion for  
27 extension of time. (ECF No. 60.) The court construes Defendant’s opposition as a motion for  
28 reconsideration of the court’s order.

1 **II. MOTION FOR RECONSIDERATION**

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

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

26 Here, Defendant Ola opposes the court’s decision to grant Plaintiff a 60-day extension of  
27 time to file a response to Defendant’s motion for summary judgment. Defendant Ola argues that  
28 Plaintiff did not file a timely opposition or statement of non-opposition within the required time

1 period set forth by the court. Defendant also argues that Plaintiff failed to establish good cause  
2 for the court to grant his motion for extension of time. Defendant's arguments have merit.  
3 However, at this stage of the proceedings, and without Plaintiff's response, the court finds that  
4 Defendant has not set forth facts or law of a strongly convincing nature to induce the court to  
5 reverse its prior decision. Therefore, Defendant's motion shall be denied.

6 **IV. CONCLUSION**

7 Based on the foregoing, IT IS HEREBY ORDERED that Defendant's motion for  
8 reconsideration, filed on November 16, 2021, is DENIED.

9  
10 IT IS SO ORDERED.

11 Dated: November 29, 2021

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