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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RANDY LANGLEY,

Plaintiff,

v.

JOSE COLEGIO,

Defendant.

No. 1:16-cv-00336-DAD-SKO

ORDER DENYING MOTIONS FOR
RECONSIDERATION, DENYING
APPOINTMENT OF COUNSEL, AND
DENYING REQUEST FOR EVIDENTIARY
HEARING

(Doc. Nos. 74, 77)

On April 4, 2018, the undersigned issued an order adopting the findings and recommendations of the assigned magistrate judge, who had recommended that plaintiff’s claim of excessive use of force should proceed against defendant Colegio, and that all other defendants and claims should be dismissed. (Doc. No. 70.) That same order also adopted the recommendation that plaintiff’s motion for summary judgment should be denied as premature, since it was filed prior to filing of the now-operative complaint in this action. (*See id.*; *see also* Doc. No. 64.)

On April 23, 2018, plaintiff sought reconsideration of the order adopting the findings and recommendations. (Doc. No. 74.)¹ In doing so, plaintiff argues that he has sufficiently alleged

¹ Plaintiff filed an identical document on June 8, 2018. (Doc. No. 77) Because these documents are identical, they will not be treated separately here.

1 facts to state a *Monell* claim against the Tulare Police Department. (*Id.*) Plaintiff presents no
2 new arguments or allegations to support this conclusory statement, and therefore has provided no
3 basis for the court to reconsider its prior decision. Plaintiff also mistakenly asserts that the
4 undersigned “erred by granting summary judgement [sic] without providing adequate notice and
5 opportunity to be heard, and ruling on evidentiary objections. (*Id.*) This argument is misplaced,
6 as the court has not granted summary judgment in favor of any party. Instead, the court denied
7 plaintiff’s motion for summary judgment as premature. (*See* Doc. Nos. 64, 70.)

8 Plaintiff also summarily requests the court to appoint him counsel and hold an evidentiary
9 hearing “regarding dfendants [sic] Tulare Police Dep’t. prior dismissal from action.” (Doc. No.
10 74.) The court has already denied plaintiff’s request for appointment of counsel on April 20,
11 2017. (*See* Doc. No. 45). Again, plaintiff has presented no reason for the court to revisit that
12 decision. Moreover, an evidentiary hearing is unnecessary, as plaintiff’s claims against the
13 Tulare Police Department were dismissed due to the insufficiency of the facts alleged by plaintiff
14 in his operative complaint.

15 For the reasons set forth above, plaintiff’s requests to reconsider the court’s order
16 adopting the findings and recommendations, to be appointed counsel, and for an evidentiary
17 hearing, noted in the documents filed on April 23, 2018 and June 8, 2018, are denied. (*See* Doc.
18 Nos. 74, 77.)

19 IT IS SO ORDERED.

20 Dated: August 23, 2018

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23 UNITED STATES DISTRICT JUDGE
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