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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ANTWOINE BEALER,)	Case No.: 1:16-cv-00672-SAB (PC)
)	
Plaintiff,)	
)	ORDER DENYING PLAINTIFF’S MOTION
v.)	FOR RECONSIDERATION
)	
WILSON, et al.,)	[ECF No. 11]
)	
Defendant.)	
)	
)	

Plaintiff Antwoine Bealer is appearing pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983.

Currently before the Court is Plaintiff’s motion for reconsideration of the Court’s August 26, 2016, screening order dismissing Plaintiff’s complaint, with leave to amend, for failure to state a claim, filed September 12, 2016. (ECF Nos. 10, 11.)

**I.
DISCUSSION**

Reconsideration motions are committed to the discretion of the trial court. Rodgers v. Watt, 722 F.2d 456, 460 (9th Cir. 1983) (en banc); Combs v. Nick Garin Trucking, 825 F.2d 437, 441 (D.C. Cir. 1987). A party seeking reconsideration must set forth facts or law of a strongly convincing nature to induce the court to reverse a prior decision. See, e.g., Kern-Tulare Water Dist. v. City of Bakersfield, 634 F.Supp. 656, 665 (E.D. Cal. 1986).

1 Pursuant to Federal Rule of Civil Procedure 60(b)(6), referred to as the catch-all provision, the
2 Court may, upon motion, relieve a party from a final order or judgment. As the moving party, Plaintiff
3 “must demonstrate both injury and circumstances beyond his control that prevented him from
4 proceeding with the action in a proper fashion.” Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008)
5 (internal quotations and citation omitted). The “Rule is to be used sparingly as an equitable remedy to
6 prevent manifest injustice and is to be utilized only where extraordinary circumstances prevented a
7 party from taking timely action to prevent or correct an erroneous judgment.” Id. (internal quotations
8 and citation omitted).

9 Plaintiff disagrees with the Court’s decision and seeks reconsideration of the order dismissing
10 his original complaint, with leave to amend. In screening Plaintiff’s complaint, the Court carefully
11 considered Plaintiff’s allegations, construed the allegations in light of Plaintiff’s pro se status, and
12 explained why the complaint failed to comply with the applicable Federal Rules of Civil Procedure,
13 along with a statement of the law applicable to any potential claims. As stated in the Court’s August
14 26, 2016, order, “the fact that Plaintiff contends certain food and supplements were confiscated, alone,
15 does not give to a claim for cruel and unusual punishment.” (ECF No. 10, Order at 3:23-26.) Simply
16 stated, Plaintiff’s inadequate nutrition claim was too vague to proceed as it was articulated in the
17 original complaint. This is not a situation in which Plaintiff was deprived of notice and an opportunity
18 to amend. If Plaintiff disagrees with the Court’s finding in the screening order, Plaintiff’s remedy is to
19 file an amended complaint. Reconsideration is not a vehicle by which to obtain a second bite at the
20 apple; it is reserved for extraordinary circumstances. United States v. Westlands Water Dist., 134
21 F.Supp.2d 1111, 1131 (E.D. Cal. 2001); see also In re Pacific Far East Lines, Inc., 889 F.2d 242, 250
22 (9th Cir. 1989) (Fed. R. Civ. P. 60(b)(6) may provide relief where parties were confronted with
23 extraordinary circumstances but it does not provide a second change for parties who made deliberate
24 choices). Plaintiff’s disagreement with the Court’s decision is not grounds for reconsideration.
25 Accordingly, Plaintiff’s motion for reconsideration shall be denied.

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II.
ORDER

Based on the foregoing, it is HEREBY ORDERED that Plaintiff's motion for reconsideration of the Court's August 26, 2016, order is DENIED.

IT IS SO ORDERED.

Dated: September 13, 2016


UNITED STATES MAGISTRATE JUDGE