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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD CASAREZ SAPIEN,
Plaintiff,
v.
AUDREY CHAPPELLE, et al.,
Defendants.

No. 1:16-cv-00910-DAD-EPG

ORDER DENYING PLAINTIFF'S
OBJECTIONS CONSTRUED AS A MOTION
FOR RECONSIDERATION

(Doc. No. 18)

Plaintiff, Richard Casarez Sapien, is proceeding *pro se* and *in forma pauperis* with this action filed on June 24, 2016. On December 6, 2018, the undersigned adopted the assigned magistrate judge's findings and recommendations recommending that the action be dismissed with prejudice due to plaintiff's failure to state any claims upon which relief may be granted. (Doc. No. 16.)

On December 12, 2018, plaintiff filed a two-page handwritten letter with the court. (Doc. No. 18.) Although difficult to decipher, the letter appears to state, "I Richard Sapien, object to Dec 6 court order to close my case." (*Id.* at 1.) It further lists various entities, including "Foster Farms", "Stericycle Medical Waste", "Toblin Luck", and "Social Services SSI", along with various dates and addresses, and states that "all withheld notice of information to the employee that was very important to my health . . . relief wanted was federal, state, and local laws applied to a injury worker for U.S. State of America [sic]." (*Id.* at 1-2.)

1 The court construes plaintiff’s objections as a motion for reconsideration of the December
2 6, 2018 order adopting the findings and recommendations. Rule 60(b) provides that “[o]n motion
3 and upon such terms as are just, the court may relieve a party . . . from a final judgment, order, or
4 proceeding for the following reasons: (1) mistake, inadvertence, surprise, or excusable neglect; . .
5 . or (6) any other reason justifying relief from the operation of judgment.” Relief under Rule 60
6 “is to be used sparingly as an equitable remedy to prevent manifest injustice and is to be utilized
7 only where extraordinary circumstances . . .” exist. *Harvest v. Castro*, 531 F.3d 737, 749 (9th
8 Cir. 2008) (internal quotations marks and citation omitted) (addressing reconsideration under
9 Rules 60(b)(1)-(5)). The moving party “must demonstrate both injury and circumstances beyond
10 his control[.]” *Id.* (internal quotation marks and citation omitted). Further, Local Rule 230(j)
11 requires, in relevant part, that plaintiff show “what new or different facts or circumstances are
12 claimed to exist which did not exist or were not shown” previously, “what other grounds exist for
13 the motion,” and “why the facts or circumstances were not shown” at the time the substance of
14 the order which is objected to was considered.

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,” and it “may *not* be used to
18 raise arguments or present evidence for the first time when they could reasonably have been
19 raised earlier in the litigation.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571
20 F.3d 873, 880 (9th Cir. 2009) (internal quotations marks and citations omitted) (emphasis in
21 original).


22 Here, it is unclear precisely what aspects of the court’s December 6, 2018 order plaintiff
23 seeks reconsideration of, and on what basis. Nonetheless, plaintiff fails to meet the requirements
24 for granting a motion for reconsideration. Plaintiff has not shown mistake, inadvertence, surprise,
25 or excusable neglect; he has also not shown the existence of either newly discovered evidence or
26 fraud; has not established that the judgment is either void or satisfied; and has not presented any
27 other reasons justifying relief from judgment. Moreover, the court’s Local Rules require a
28 showing that “new or different facts or circumstances claimed to exist which did not exist or were

1 not shown upon such prior motion, or what other grounds exist for the motion.” Local Rule
2 230(j). Plaintiff has failed to make the required showing. Indeed, plaintiff’s filing does nothing
3 to alter the magistrate judge’s previous finding, adopted by the undersigned, that plaintiff fails to
4 allege sufficient facts, fails to state the involvement of any defendant, and fails to state why
5 plaintiff is entitled to relief.

6 Accordingly, plaintiff’s filing (Doc. No. 18), construed as a motion for reconsideration, is
7 denied.

8 IT IS SO ORDERED.

9 Dated: February 12, 2019


UNITED STATES DISTRICT JUDGE

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