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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PAUL CLARK,

 Petitioner,

 v.

STUART SHERMAN, Warden, Corcoran
State Prison,

 Respondent.

No. 1:16-cv-01550-LJO-SKO HC

**ORDER DENYING MOTION FOR
RECONSIDERATION AS UNTIMELY**

(Doc. 12)

Petitioner, Paul Clark, a state prisoner represented by attorney Vicken H. Hagopian, proceeds with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, filed October 12, 2016. On October 14, 2016, Petitioner filed a motion for temporary restraining order. The Court referred the matter to the Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1) and Local Rules 302 and 304.

On October 19, 2016, the Magistrate Judge filed findings and a recommendation that the Court dismiss the petition for lack of jurisdiction and, in the absence of jurisdiction, deny the motion for temporary restraining order. The findings and recommendations, which were served on both parties on the same date, provided that objections could be served within ten days and replies within five days after the filing of any objections. On October 20, 2016, Petitioner filed (1) objections to the finding and recommendation (Doc. 11) and (2) a motion for reconsideration (Doc. 12) regarding his motion for a temporary restraining order.

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In federal district court, motions for reconsideration are evaluated under F.R.Civ.P 59(e) or 60(a) or (b). In either case, the party must be seeking relief from a final judgment, order, or proceeding. In this case, the Magistrate Judge’s findings and recommendations are pending, and there is no final judgment, order, or proceeding.

Accordingly, Petitioner’s motion for reconsideration is hereby DENIED.

IT IS SO ORDERED.

Dated: October 21, 2016

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE