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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 LAWRENCE CHRISTOPHER SMITH,

12 Plaintiff,

13 vs.

14 PARRIOT, et al.,

15 Defendants.
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Case No. 1:19-cv-00286-JLT-GSA-PC

**ORDER DENYING PLAINTIFF'S
REQUEST FOR RECONSIDERATION
OF MAGISTRATE'S ORDER BY
DISTRICT JUDGE**

(Doc. 64.)

17 This case is proceeding on Lawrence Christopher Smith's First Amended Complaint
18 alleging the excessive use of force in violation of the Eighth Amendment against defendants
19 Cantu, W. Gutierrez, and Mattingly ("Defendants"). (Doc. 22.)

20 The assigned magistrate judge issued findings and recommendations that the Court
21 grant Defendants' motion for summary judgment based on Plaintiff's failure to exhaust
22 administrative remedies and because the claims in this case are barred by *Heck v. Humphrey*,
23 512 U.S. 477, 483–87 (1994). (See Doc. 57.) On June 29, 2022, Plaintiff filed a motion to stay
24 the resolution of Defendants' pending motion for summary judgment so that he could amend
25 his complaint in a related action, *Smith v. Secretary*, 2:21-cv-00519-WSB-DB, and consolidate
26 all his actions pending before the Court. (Doc. 62.) On July 14, 2022, the magistrate judge
27 issued an order denying Plaintiff's motion for stay, noting that Plaintiff is unlikely to succeed
28 on the merits of this case. (Doc. 63 at 2.) On July 25, 2022, Plaintiff filed a request for

1 reconsideration of the magistrate judge’s denial of his request for a stay. (Doc. 16.)

2 Defendants have not filed an opposition to the motion for reconsideration.

3 Local Rule 303 provides that “[a] party seeking reconsideration of the Magistrate
4 Judge’s ruling shall file a request for reconsideration by a Judge . . . specifically designat[ing]
5 the ruling, or party thereof, objected to and the basis for that objection.” Local Rule 303(c).

6 “The standard that the assigned Judge shall use in all such requests is the ‘clearly erroneous or
7 contrary to law’ standard set forth in 28 U.S.C. § 636(b)(1)(A).” Local Rule 303(f).

8 After review of the magistrate judge’s order and examination of Plaintiff’s arguments in
9 his request for reconsideration, the Court finds no basis for reconsideration. The magistrate
10 judge reasonably concluded that Plaintiff is unlikely to succeed on the merits of the claims in
11 this case. Plaintiff’s suggestion that this case should be stayed so that he can amend his
12 complaint in *Smith v. Secretary*, 2:21-cv-00519-WSB-DB, is not material to the stay analysis.
13 He fails to indicate how the claims pending in this case are viable and/or otherwise suggest why
14 the magistrate judge’s ruling was erroneous or contrary to law. Based on the foregoing, the

15 Court **ORDERS**:

- 16 1. Plaintiff’s request for reconsideration (Doc. 64) of the magistrate judge’s July
17 14, 2022 order, filed on July 25, 2021 (Doc. 63), is **DENIED**.
18 2. This case is referred to the magistrate judge for further proceedings.

19
20 IT IS SO ORDERED.

21 Dated: **August 10, 2022**


UNITED STATES DISTRICT JUDGE