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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

GERALD F. STANLEY,  
  
Petitioner,  
  
v.  
  
KEVIN CHAPPELL, Warden of  
California State Prison at  
San Quentin,  
  
Respondent.

No. 2:95-cv-1500 JAM CKD

**ORDER DENYING MR. LEAVITT'S  
MOTION FOR RECONSIDERATION**

Before the Court is Attorney Jack Leavitt's Request for Reconsideration (Doc. #982) of Magistrate Judge Delaney's December 19, 2014 Order (Doc. #972). Mr. Leavitt challenges the Magistrate Judge's award of sanctions, arguing that he has "acted properly in this litigation." Mot. at 2.

I. OPINION

A. Legal Standard

Sanctions are non-dispositive matters which may be imposed by magistrate judges. 28 U.S.C. § 636(b)(1); Grimes v. City & Cnty. of San Francisco, 951 F.2d 236, 240 (9th Cir. 1991). Because sanctions are non-dispositive matters, review of sanctions issued by magistrate judges is governed by the "clearly

1 erroneous or contrary to law" standard set forth in 28 U.S.C.  
2 § 236(b)(1)(A). Therefore, a magistrate judge's order cannot be  
3 set aside or modified unless the findings of fact are clearly  
4 erroneous or the conclusions are contrary to law. Fed. R. Civ.  
5 P. 72(a). The order should be modified or set aside only if the  
6 reviewing court is left "with the definite and firm conviction  
7 that the [magistrate judge's] key findings are mistaken." Easley  
8 v. Cromartie, 532 U.S. 234, 243 (2001).

9 B. Analysis

10 This Court finds that Magistrate Judge Delaney's findings  
11 were not clearly erroneous or contrary to law. The terms of  
12 Magistrate Judge Hollows' October 22, 2002 Order are unambiguous:  
13 "Attorney Leavitt is not permitted to appear in this action, and  
14 he shall file no further pleadings in this action[.]" Doc. #365  
15 at 9. Magistrate Judge Delaney's October 3, 2014 Order is  
16 similarly unequivocal: "[U]nless he is specifically ordered to do  
17 so, Mr. Leavitt is barred from filing anything further in this  
18 case. . . . [Leavitt] is warned that any further filings he makes  
19 with this court may subject him, again, to sanctions." Doc. #940  
20 at 2. On October 29, 2014, in ordering Mr. Leavitt to respond to  
21 the motion for sanctions against him, Magistrate Judge Delaney  
22 crafted a narrow exception to these prohibitions: "Mr. Leavitt's  
23 response shall be limited to explaining why this court should not  
24 impose sanctions and/or find him in contempt of court. In  
25 addition, Mr. Leavitt may request oral argument." Doc. #949 at 1.

26 Magistrate Judge Delaney found that Mr. Leavitt violated  
27 these orders with five separate filings (or attempted filings,  
28 which were served on Petitioner's counsel): (1) Request for

1 Relief to Protect Confidentiality and to Prevent Continuation of  
2 Unethical Procedures (Doc. #933) filed on August 21, 2014 and  
3 removed by order of the court on October 3, 2014 (Doc. #940);  
4 (2) Declaration of Gerald Stanley regarding Attorney  
5 Representation - prepared and served by Mr. Leavitt (Doc. #937);  
6 (3) Motion to Dismiss Sanctions Motion (not filed, pursuant to  
7 Doc. #962); (4) Motion for Court Order to Assure Gerald F.  
8 Stanley's Presence at Hearing on Sanctions Motion (not filed,  
9 pursuant to Doc. #962); and (5) Declaration of Gerald F. Stanley  
10 Opposing Sanctions Motion and Requesting Presence at Hearing (not  
11 filed, pursuant to Doc. #962). Given the unambiguous nature of  
12 both Magistrate Judge Hollows' and Magistrate Judge Delaney's  
13 orders, it cannot be said that Magistrate Judge Delaney's  
14 findings were clearly erroneous or contrary to law.

15 The Court further finds that the myriad issues and arguments  
16 raised by Mr. Leavitt are not relevant and raise no issues of  
17 material fact. See United States v. Ayres, 166 F.3d 991, 996  
18 (9th Cir. 1999).

19 II. ORDER

20 For the reasons set forth above, the Court DENIES Mr.  
21 Leavitt's Request for Reconsideration.

22 IT IS SO ORDERED.

23 Dated: January 23, 2015

24   
25 JOHN A. MENDEZ,  
26 UNITED STATES DISTRICT JUDGE  
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