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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DANNY JAMES COHEA,  
  
Plaintiff,  
  
v.  
  
J. COLVIN, D. McCARGAR, S.L.  
BAUGHMAN, M.A. MICHEELS, R  
YAMAMOTO, SD AKIN, D. ADAMS,  
A GOLD, and S. SCARSELLA,  
  
Defendants.

No. 2:00-cv-02799-GEB-EFB

**ORDER DENYING PLAINTIFF'S MOTION  
TO VACATE JUDGMENT**

Trial commenced in this action on July 28, 2015. On July 30, 2015, the Court granted each Defendant's motion for judgment as a matter of law, and judgment was entered accordingly on August 4, 2015. On August 13, 2015, Plaintiff filed a motion to vacate the judgment under Federal Rule of Civil Procedure 59(e), arguing the Court violated his due process rights and his right to a jury trial. (Pl.'s Mot. Vacate 2, ECF No. 333.) Specifically, Plaintiff argues the Court incorrectly limited the claims to be presented at trial in its pretrial orders, obstructed Plaintiff's presentation of evidence at trial, allowed the jury to be tarnished by one potential juror's bias, and permitted the jury to see Plaintiff while in wrist restraints. (Id.)

1 Defendants oppose the motion, rejoining, "Plaintiff's  
2 moving papers do not meet his burden of demonstrating cause to  
3 alter or amend the judgment" under Rule 59(e). (Defs.' Opp'n to  
4 Mot. Vacate 2:19-20, ECF No. 336.) Defendants argue:

5 Plaintiff's moving papers do not identify any  
6 newly discovered evidence, clear error  
7 committed by the District Judge, or an  
8 intervening change in the controlling law.  
9 Rather, Plaintiff submits a vague statement  
10 that the District Judge violated his due  
11 process rights and right to a jury trial, and  
12 he complains about jury selection. Notably,  
13 since the District Judge granted Defendants'  
14 motion for judgment as a matter of law, this  
15 case was not submitted to the jury for  
16 determination, and any jury selection issues  
17 are therefore irrelevant. Moreover, Plaintiff  
18 has not submitted evidence or otherwise cited  
19 to the record demonstrating any basis for  
20 amending the Judgment or granting a new  
21 trial.

22 (Id. at 2:12-19.)

23 "Under Federal Rule of Civil Procedure 59(e), a party  
24 may move to have the court amend its judgment within twenty-eight  
25 days after entry of the judgment." Allstate Ins. Co. v. Herron,  
26 634 F.3d 1101, 1111 (9th Cir. 2011). However, "amending a  
27 judgment after its entry [is] an extraordinary remedy which  
28 should be used sparingly." Id. (internal quotation marks and  
citation omitted).

29 In general, there are four basic grounds upon  
30 which a Rule 59(e) motion may be granted: (1)  
31 if such motion is necessary to correct  
32 manifest errors of law or fact upon which the  
33 judgment rests; (2) if such motion is  
34 necessary to present newly discovered or  
35 previously unavailable evidence; (3) if such  
36 motion is necessary to prevent manifest  
37 injustice; or (4) if the amendment is  
38 justified by an intervening change in  
controlling law.

1 Id.

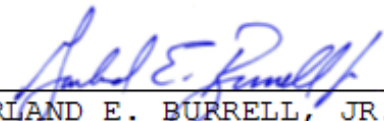
2 Plaintiff has not made a sufficient showing to amend  
3 the judgment on any of the referenced grounds. Therefore,  
4 Plaintiff's motion, (ECF No. 333), is DENIED.

5 Dated: September 4, 2015

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GARIAND E. BURRELL, JR.  
Senior United States District Judge

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