

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

EARNEST CASSELL WOODS, II,

Plaintiff,

No. CIV S-04-1225 LKK GGH P

vs.

TOM L. CAREY, et al.,

Defendants.

ORDER

_____ /

Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. On December 29, 2008, plaintiff filed a request for reconsideration of this court's order filed December 16, 2008, denying plaintiff's request for injunctive relief. Plaintiff also requests the appointment of a federal investigator.

Standards For Motions To Reconsider

Although motions to reconsider are directed to the sound discretion of the court, Frito-Lay of Puerto Rico, Inc. v. Canas, 92 F.R.D. 384, 390 (D.C. Puerto Rico 1981), considerations of judicial economy weigh heavily in the process. Thus Local Rule 78-230(k) requires that a party seeking reconsideration of a district court's order must brief the "new or different facts or circumstances [which] were not shown upon such prior motion, or what other grounds exist for the motion." The rule derives from the "law of the case" doctrine which provides that the decisions on legal issues made in a case "should be followed unless there is

1 substantially different evidence . . . new controlling authority, or the prior decision was clearly
2 erroneous and would result in injustice.” Handi Investment Co. v. Mobil Oil Corp., 653 F.2d
3 391, 392 (9th Cir. 1981); see also Waggoner v. Dallaire, 767 F.2d 589, 593 (9th Cir. 1985), cert.
4 denied, 475 U.S. 1064 (1986).

5 Courts construing Federal Rule of Civil Procedure 59(e), providing for the
6 alteration or amendment of a judgment, have noted that a motion to reconsider is not a vehicle
7 permitting the unsuccessful party to “rehash” arguments previously presented, or to present
8 “contentions which might have been raised prior to the challenged judgment.” Costello v. United
9 States, 765 F.Supp. 1003, 1009 (C.D.Cal. 1991); see also F.D.I.C. v. Meyer, 781 F.2d 1260, 1268
10 (7th Cir. 1986); Keyes v. National R.R. Passenger Corp., 766 F. Supp. 277, 280 (E.D. Pa. 1991).
11 These holdings “reflect[] district courts' concerns for preserving dwindling resources and
12 promoting judicial efficiency.” Costello, 765 F.Supp. at 1009.

13 In the instant action, plaintiff has not set forth new facts and cited no new cases.
14 Plaintiff still seeks injunctive relief concerning an institution at which he is no longer
15 incarcerated, and such claim remains moot.


16 Court-Appointed Investigator

17 Plaintiff has been granted leave to proceed with this action in forma pauperis
18 pursuant to 28 U.S.C. § 1915. On December 29, 2008, plaintiff filed a request for a court-
19 appointed investigator. The expenditure of public funds on behalf of an indigent litigant is
20 proper only when authorized by Congress. Tedder v. Odel, 890 F.2d 210 (9th Cir. 1989). The in
21 forma pauperis statute does not authorize the expenditure of public funds for investigators. See
22 28 U.S.C. § 1915.

23 Therefore, IT IS HEREBY ORDERED that:

- 24 1. Upon reconsideration, this court's order of December 16, 2008, is affirmed.
- 25 2. Plaintiff’s request for a court-appointed investigator is denied.

1 DATED: January 12, 2009.

2
3 
4 LAWRENCE K. KARLTON
5 SENIOR JUDGE
6 UNITED STATES DISTRICT COURT
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26