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

LUIS LORENZO ARMENTERO,

Plaintiff,

No. CIV S-06-1838 GEB KJM P

vs.

C. LEVAN, et al.,

Defendants.

FINDINGS AND RECOMMENDATIONS

\_\_\_\_\_ /

Plaintiff is a state prison inmate proceeding pro se with a civil rights action under 42 U.S.C. § 1983. On August 27, 2010, the district court denied plaintiff’s motion for summary judgment and entered judgment, based on earlier grants of summary judgment for defendants. On September 9, 2010, plaintiff filed a motion to amend or alter the judgment under Rule 59(e) of the Federal Rules of Civil Procedure. Plaintiff argues that defendant Taylor failed to demonstrate that she was not responsible for his misclassification; he does not address this court’s recommendation and the district court’s order granting her motion for summary judgment (docket nos. 63, 67). He also complains that this court denied his motion for the appointment of counsel and takes issue with the denial of motions “during the period from August 17, 2006 through August, 27, 2010.”

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1 The Ninth Circuit has said there are four grounds upon which a Rule 59(e) motion  
2 may be granted:

3 1) the motion is “necessary to correct *manifest errors of law or fact*  
4 *upon which the judgment is based*; 2) the moving party presents  
5 “newly discovered or previously unavailable evidence;” 3) the  
6 motion is necessary to “prevent manifest injustice;” or 4) there is  
7 an “intervening change in controlling law.”

8 Turner v. Burlington Northern Santa Fe Railroad Company, 338 F.3d 1058, 1063 (9th Cir.  
9 2003). Plaintiff has not satisfied any of these prerequisites to the granting of his motion.

10 IT IS HEREBY RECOMMENDED that plaintiff’s motion to alter the judgment  
11 (docket no. 73) be denied.

12 These findings and recommendations are submitted to the United States District  
13 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-  
14 one days after being served with these findings and recommendations, any party may file written  
15 objections with the court and serve a copy on all parties. Such a document should be captioned  
16 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections  
17 shall be served and filed within fourteen days after service of the objections. The parties are  
18 advised that failure to file objections within the specified time may waive the right to appeal the  
19 District Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

20 DATED: November 5, 2010.

21   
22 U.S. MAGISTRATE JUDGE

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24 arme1838.59(e)