

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

STEPHEN SMITH,

Plaintiff, No. CIV S-09-0379 EFB P

VS.

KENNETH L. KRAMER, et al.,

Defendants. ORDER

Plaintiff, a state prisoner proceeding without counsel, brought this action under 42 U.S.C.

§ 1983. This proceeding was referred to this court by Local Rule 302 pursuant to 28 U.S.C.

§ 636(b)(1) and is before the undersigned pursuant to plaintiff's consent. *See* 28 U.S.C. § 636;

see also E.D. Cal. Local Rules, Appx. A, at (k)(4).

¹⁰ On May 4, 2010, the court dismissed this case.

failure to state a claim upon which relief could be granted. Dckt. No. 22. On May 14, 2010, plaintiff filed “objections” to that order, which the court construes as a motion for reconsideration. Dckt. No. 24.

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 230(j)

1 requires that a party seeking reconsideration of a district court's order must brief the "new or
2 different facts or circumstances . . . [which] were not shown upon such prior motion, or what
3 other grounds exist for the motion." The rule derives from the "law of the case" doctrine which
4 provides that the decisions on legal issues made in a case "should be followed unless there is
5 substantially different evidence . . . new controlling authority, or the prior decision was clearly
6 erroneous and would result in injustice." *Handi Investment Co. v. Mobil Oil Corp.*, 653 F.2d
7 391, 392 (9th Cir. 1981); *see also Waggoner v. Dallaire*, 767 F.2d 589, 593 (9th Cir. 1985), *cert. denied*, 475 U.S. 1064 (1986).

9 Plaintiff has failed to demonstrate any new or different facts or circumstances which did
10 not exist or were not shown when the court dismissed this action pursuant to § 1915A(b), and
11 thus, his motion is denied. *See L.R. 230(j)*. Nor has plaintiff identified any other ground that
12 would justify relief from judgment. *See Sch. Dist. No. 1J, Multnomah County, Or. v. ACandS, Inc.*, 5 F.3d 1255, 1263 (9th Cir. 1993) (setting forth grounds for reconsideration).

14 Notwithstanding the fact that this case is now closed, plaintiff, on June 14, 2010, filed a
15 third amended complaint. Dckt. No. 25. The court will order that the pleading be stricken and
16 notes that it will issue no response to future filings by plaintiff in this action not authorized by
17 the Federal Rules of Civil Procedure or Federal Rules of Appellate Procedure.

18 Accordingly, IT IS HEREBY ORDERED that:

19 1. Plaintiff's May 14, 2010 objections, construed as a motion for reconsideration, is
20 denied; and

21 2. Plaintiff's third amended complaint, filed June 14, 2010, is stricken from the docket
22 and the Clerk of the Court is directed to make a notation to that effect.

23 DATED: July 19, 2010.

24 
25 EDMUND F. BRENNAN
26 UNITED STATES MAGISTRATE JUDGE