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

10 PETER J.D. CLARK, SR.,

11 Plaintiff,

No. CIV S-09-1452 GEB DAD PS

12 vs.

13 POLICE OFFICER HANN, et al.,

ORDER

14 Defendants.
15 _____/

16 Plaintiff has filed a motion for reconsideration of this court's order filed February
17 5, 2010, denying plaintiff's motions for a continuance of unspecified length and for court-
18 appointed counsel. Plaintiff's motion for reconsideration includes a request for a 60-day
19 extension of time to file opposition to defendants' motions to dismiss.

20 Motions to reconsider are directed to the sound discretion of the court. See Boone
21 v. United States, 743 F. Supp. 1367, 1371 (D. Haw. 1990), aff'd, 944 F.2d 1489 (9th Cir. 1991);
22 Frito-Lay of Puerto Rico, Inc. v. Canas, 92 F.R.D. 384, 390 (D.C. Puerto Rico 1981). In the
23 United States District Court for the Eastern District of California, a party seeking reconsideration
24 of a ruling on a motion must brief the "new or different facts or circumstances . . . which did not
25 exist or were not shown upon such prior motion, or what other grounds exist for the motion."
26 Local Rule 230(j). This rule derives from the principle that decisions on legal issues made in a

1 case should be followed unless there is substantially different evidence or new controlling
2 authority, or the party demonstrates that the court's prior decision was clearly erroneous and has
3 resulted in injustice. Handi Investment Co. v. Mobil Oil Corp., 653 F.2d 391, 392 (9th Cir.
4 1981); Waggoner v. Dallaire, 767 F.2d 589, 593 (9th Cir. 1985). A motion to reconsider is not a
5 vehicle by which an unsuccessful party is permitted to "rehash" arguments previously presented
6 or to present arguments that could have been raised previously. See Costello v. United States,
7 765 F. Supp. 1003, 1009 (C.D. Cal. 1991); see also FDIC v. Meyer, 781 F.2d 1260, 1268 (7th
8 Cir. 1986); Keyes v. National R.R. Passenger Corp., 766 F. Supp. 277, 280 (E.D. Pa. 1991).

9 Here, plaintiff's motion for reconsideration does not offer substantially different
10 evidence or new controlling authority. Nor does the motion show that the court's decision was
11 clearly erroneous and resulted in injustice. Plaintiff reargues points previously presented in his
12 motion for continuance and request for court-appointed counsel. Plaintiff offers no assurance
13 that, if granted a 60-day extension of time, he will in fact file opposition to defendants' motions.
14 The motion for reconsideration and request for a 60-day continuance will therefore be denied.

15 As a result of plaintiff's failure to file opposition to defendants' motions within
16 the final extension of time granted on February 5, 2010, plaintiff is not entitled to be heard in
17 opposition to the motions at oral argument. See Local Rule 230(c). Good cause appearing, the
18 unopposed motions will be submitted upon the record and briefs on file, and the scheduled
19 hearing will be dropped from the court's February 19, 2010 calendar. See Local Rule 230(b).
20 Defendants' submitted motions will be addressed in written findings and recommendations that
21 will be issued when the court's calendar permits.

22 IT IS ORDERED that:

23 1. Plaintiff's February 10, 2010 motion for reconsideration and for a 60-day
24 extension of time (Doc. No. 68) is denied.

25 2. Defendants' motions to dismiss (Doc. Nos. 44, 45, 48, 52, 53), all noticed for
26 hearing on February 19, 2010 by defendants' amended notices of motion (Doc. Nos. 60, 61, 62,

63, 64), are submitted upon the record and briefs on file, and the hearing set for February 19, 2010 is vacated.

DATED: February 11, 2010.



DALE A. DROZD
UNITED STATES MAGISTRATE JUDGE

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