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

LAWRENCE CYPRIAN,

Plaintiff,

No. 2:09-cv-2704 JAM JFM (PC)

vs.

DERRICK GIVENS, et al.,

Defendants.

ORDER

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Plaintiff is a state prisoner proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has filed a motion for reconsideration of this court’s July 22, 2011 order adopting in full findings and recommendations filed by the magistrate judge on June 8, 2011 and granting defendant Newman’s December 7, 2010 motion for summary judgment.

The court granted defendant Newman’s motion for summary judgment on the grounds that (1) defendant Newman was a private attorney appointed to represent plaintiff in state criminal proceedings and there was no evidence that defendant Newman conspired with any state actor to deprive plaintiff of his constitutional rights; and (2) the jury at plaintiff’s criminal trial deadlocked 9-3 in favor of acquittal and the charges were subsequently dismissed. Plaintiff seeks reconsideration on the ground that he should have been given an opportunity to conduct discovery principally to uncover evidence of a possible conspiracy between defendant Newman

1 and other state actors. Plaintiff also raises arguments concerning defendant Newman's decision  
2 not to have a second handwriting expert examine a note that led to the discovery of the weapon  
3 and the criminal charges against plaintiff, which plaintiff contends was written by defendant  
4 Givens.

5 As noted above, the charges against plaintiff were dismissed after the jury  
6 deadlocked 9-3 in favor of acquittal. Plaintiff did not suffer any cognizable harm as a result of  
7 any act or omission by defendant Newman, and he has not shown any basis for reconsideration of  
8 the grant of summary judgment in defendant Newman's favor. Cf. Fed. R. Civ. P. 60(b); Local  
9 Rule 230(j) (E.D.Cal.).

10 For the foregoing reasons, IT IS HEREBY ORDERED that plaintiff's August 11,  
11 2011 motion for reconsideration is denied.

12 DATED: December 8, 2011

13 /s/ John A. Mendez  
14 UNITED STATES DISTRICT JUDGE  
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