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

MALIK JONES,

Plaintiff,

No. CIV S-09-3174 MCE CKD P

vs.

A. DAVID,

Defendant.

ORDER

_____ /

On April 9, 2012, plaintiff filed a motion asking that this court reconsider the March 29, 2012, order adopting the magistrate judge’s December 28, 2011, findings and recommendations thereby dismissing defendant Holmes from this action.


A district court may reconsider a ruling under either Federal Rule of Civil Procedure 59(e) or 60(b). See Sch. Dist. Number. 1J, Multnomah County v. ACandS, Inc., 5 F.3d 1255, 1262 (9th Cir. 1993). “Reconsideration is appropriate if the district court (1) is presented with newly discovered evidence, (2) committed clear error or the initial decision was manifestly unjust, or (3) if there is an intervening change in controlling law.” Id. at 1263.

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1 Plaintiff does not present newly discovered evidence suggesting this matter should
2 not be dismissed as to Holmes. Furthermore, the Court finds that, after a de novo review of this
3 case, the March 29, 2012, order adopting the magistrate judge's December 28, 2011, findings and
4 recommendations is neither manifestly unjust nor clearly erroneous.

5 Accordingly, IT IS HEREBY ORDERED that plaintiff's April 9, 2012, motion for
6 reconsideration (ECF No. 65) is DENIED.

7 Dated: May 1, 2012

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10 MORRISON C. ENGLAND, JR.
11 UNITED STATES DISTRICT JUDGE
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