

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BERNARD L. SMITH,
Plaintiff,
v.
CALIFORNIA STATE PRISON-
SACRAMENTO, et al.,
Defendants.

No. 2:10-cv-00766-KJM-DAD

ORDER

On March 12, 2012, the court closed this action, finding plaintiff had not exhausted his administrative remedies. (ECF No. 64.) On July 28, 2014, plaintiff filed a document captioned “Motion to Recover Cost.” (ECF No. 66.) In the motion, plaintiff “ask[s] this [c]ourt to dismiss all fees and cost related to this matter” (*Id.* at 1.) Although plaintiff cites to Federal Rule of Civil Procedure 41(b) in support of his motion, that rule is completely unrelated to plaintiff’s request. The court construes plaintiff’s motion as a motion for reconsideration of the magistrate judge’s order requiring plaintiff to make monthly payments to satisfy his obligation to pay a filing fee. (ECF No. 10.) As explained below, the court DENIES plaintiff’s motion.

I. DISCUSSION

District courts “possess[] the inherent procedural power to reconsider, rescind, or modify an interlocutory order for cause seen [] to be sufficient.” *City of L.A., Harbor Div. v.*

1 *Santa Monica Baykeeper*, 254 F.3d 882, 885 (9th Cir. 2001) (citations and internal quotation
2 marks omitted). A motion for reconsideration, however, “should not be granted, absent highly
3 unusual circumstances, unless the district court is presented with newly discovered evidence,
4 committed clear error, or if there is an intervening change in the controlling law.” *389 Orange St.*
5 *Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999) (citing *Sch. Dist. No. 1J v. ACandS, Inc.*, 5
6 F.3d 1255, 1263 (9th Cir. 1993)).

7 Here, plaintiff has presented no new evidence, has not shown the court committed
8 a clear error or that there is an intervening change in the law. In his motion, plaintiff argues that
9 the “fees against him causes him to live in extreme poverty.” (ECF No. 66 at 1.) From plaintiff’s
10 inmate statement report, it appears that as of July 2014, the current balance owed on his
11 obligation is \$294.00 of the \$350.00 filing fee. (*Id.* at 4.) The record is devoid of any evidence
12 based on which the court could reconsider the prior order requiring plaintiff to make monthly
13 payments. (ECF No. 10.) Accordingly, the court DENIES plaintiff’s motion.

14 II. CONCLUSION

15 For the foregoing reasons, the court DENIES plaintiff’s motion.

16 IT IS SO ORDERED.

17 DATED: November 12, 2014.

18
19 
20 UNITED STATES DISTRICT JUDGE
21
22
23
24
25
26
27
28