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

JESSE LEE SHAVERS, JR.,

Petitioner,

No. 2:10-cv-1001 JAM CKD P

vs.

D. CLARK, et al.,

Respondents.

ORDER

_____ /

On April 1, 2013, plaintiff filed a motion asking this court to reconsider its March 6, 2012 order adopting the magistrate judge’s findings and recommendations of December 28, 2011, thereby dismissing this action for plaintiff’s failure to exhaust administrative remedies before filing suit.

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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Plaintiff does not present newly discovered evidence suggesting this action should not have been dismissed, nor does he demonstrate an intervening change in the law. Furthermore, the court finds that the March 6, 2012 order adopting the December 28, 2011 findings and recommendations was neither manifestly unjust nor clearly erroneous.

Accordingly, IT IS HEREBY ORDERED that plaintiff's April 1, 2013 motion for reconsideration (Dkt. No. 54) is DENIED.

DATED: April 12, 2013

/s/ John A. Mendez
UNITED STATES DISTRICT COURT JUDGE