

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

ALBERTO WINFFEL,

Plaintiff,

No. 2:10-cv-1002 JAM EFB R

VS.

POMAZAL, et al.,

## Defendants.

## ORDER

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On May 3, 2013, the court dismissed this action because plaintiff failed to file administrative remedies prior to filing suit, and judgment was duly entered. On June 10, 2013, plaintiff filed a motion for reconsideration of the order dismissing his case.

Local Rule 230(j) requires that a motion for reconsideration state “what new or different facts or circumstances are claimed to exist which did not exist or were not shown upon such prior motion, or what other grounds exist for the motion,” and “why the facts or circumstances were not shown at the time of the prior motion.” E.D. Cal., Local Rule 230(j)(3)-(4); see also Fed. R. Civ. P. 60(b) (setting forth grounds for relief from judgment).

Plaintiff's motion includes a document dated August 28, 2009, stating that (1) an appeal he submitted was screened out as duplicative, and (2) that if he believed the screening was

1 improper, he should return the form and his appeal to the Health Care Appeals Officer. As  
2 defendants note in their opposition, plaintiff fails to demonstrate that the screened out appeal  
3 relates to the claim giving rise to this lawsuit or that he returned the form for further processing  
4 as instructed.

5 Plaintiff also argues that no administrative remedies are available to an inmate  
6 seeking monetary damages. Even when a prisoner seeks monetary damages, however,  
7 exhaustion of administrative remedies is a prerequisite to suit. Porter v. Nussle, 534 U.S. 516,  
8 524 (2002).

9 Through his request for reconsideration, plaintiff fails to demonstrate any new or  
10 different facts or circumstances that entitle him to reconsideration of the order of dismissal or to  
11 relief from judgment.

12 Accordingly, IT IS HEREBY ORDERED that plaintiff's May 17, 2013 motion for  
13 reconsideration is DENIED.

14 DATED: June 17, 2013

15  
16 /s/ John A. Mendez  
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UNITED STATES DISTRICT COURT JUDGE