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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

HOWARD ALAN ZOCHLINSKI,
Plaintiff,
v.
RICHARD C. BLUM, et al.,
Defendants.

No. 2:11-cv-03295-KJM-KJN

ORDER

On December 8, 2015, the magistrate judge recommended this action be dismissed for failure to prosecute. ECF No. 75. Plaintiff Howard Zochlinski objected. ECF No. 79. The court adopted the recommendation of dismissal in an order filed June 10, 2016. ECF No. 86. The action was dismissed, and judgment was entered the same day. ECF No. 87.

On July 8, 2016, Zochlinski asked the court to reconsider, to vacate its order dismissing the action, and to relieve him of the judgment, citing Federal Rules of Civil Procedure 59(a) and 60(b). ECF No. 88. He reemphasizes several points raised in his objections to the magistrate judge’s findings and recommendations. *See generally id.* at 3 (“[This court] apparently disregarded Zochlinksi’s objections”); *id.* at 7 (“[Zochlinski] does believe that, in reaching its decision, the Court did not give sufficient weight in its considerations to Plaintiff’s medical issues . . . [and] demonstrated a bias toward the defendant’s position.”).

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The court construes Mr. Zochlinski’s motion as one brought under Federal Rule of Civil Procedure 59(e). *See* Fed. R. Civ. P. 59(e) (“A motion to alter or amend a judgment must be filed no later than 28 days after the entry of the judgment.”); *Am. Ironworks & Erectors, Inc. v. N. Am. Const. Corp.*, 248 F.3d 892, 898 (9th Cir. 2001) (requests for reconsideration filed within the time period identified in Rule 59(e) are construed as motions under that section). “Under Rule 59(e), a motion for reconsideration should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the controlling law.” *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999).

Mr. Zochlinski’s motion does not identify newly discovered evidence, an intervening change in the law, or a manifest injustice. The court clarifies, to the extent not previously made clear, that it considered each of his filings, including those at ECF Nos. 76, 79, 81, 82, and 84, before it issued its order adopting the recommendation of dismissal.

IT IS SO ORDERED.

DATED: July 19, 2016


UNITED STATES DISTRICT JUDGE