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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MYRON A. PAYNE,
Plaintiff,
v.
MATTHEW CATE et al.,
Defendants.

No. 2:12-cv-0243 DAD P

ORDER

Plaintiff is a state prisoner proceeding pro se with a civil rights action. Pending before the court is plaintiff's motion for reconsideration of the court's order screening his amended complaint.

BACKGROUND

In this case, plaintiff's primary claim presented in his amended complaint is that defendants improperly validated him as a gang member of the Black Guerilla Family while he was incarcerated at High Desert State Prison. In its screening order, the court found that plaintiff's amended complaint appeared to state cognizable claims for relief against defendants Peddicord, Griffith, Vanderville, Armoskus, Brackett, St. Andre, Fischer, Kissel, Perez, Cochrane, Kots, and Runnels in connection with his allegedly erroneous gang validation. The court also found, however, that plaintiff's amended complaint did not state cognizable claims for relief against supervisory defendants Cate, Tilton, Felker, Audette, Wright, and Gower or against

1 defendants Audette, Wright, and Gower for the way in which they processed plaintiff's inmate
2 appeals. (Doc. No. 16)

3 **PLAINTIFF'S MOTION FOR RECONSIDERATION**

4 The court has considered plaintiff's motion for reconsideration and will deny it. "[A]
5 motion for reconsideration should not be granted, absent highly unusual circumstances, unless the
6 district court is presented with newly discovered evidence, committed clear error, or if there is an
7 intervening change in the controlling law." Kona Enterprises v. Estate of Bishop, 229 F.3d 877,
8 890 (9th Cir. 2000). Using a motion for reconsideration to reargue the points the court rejected in
9 the original order is improper. See American Ironworks & Erectors v. North American
10 Construction Corporation, 248 F.3d 892, 899 (9th Cir. 2001). A party cannot have relief merely
11 because he or she is unhappy with the judgment. See Khan v. Fasano, 194 F. Supp. 2d 1134,
12 1136 (S.D. Cal. 2001).

13 Nonetheless, the court has reviewed plaintiff's amended complaint once again. As to the
14 court's screening order with respect to supervisory defendants Cate, Tilton, Felker, Audette,
15 Wright, and Gower, as the court previously advised plaintiff, supervisory personnel are generally
16 not liable under § 1983 for the actions of their employees under a theory of respondeat superior
17 and, therefore, when a named defendant holds a supervisory position, the causal link between
18 him and the claimed constitutional violation must be specifically alleged. See Starr v. Baca, 652
19 F.3d 1202, 1207 (9th Cir. 2011) (supervisory defendant may be held liable under § 1983 only "if
20 there exists either (1) his or her personal involvement in the constitutional deprivation, or (2) a
21 sufficient causal connection between the supervisor's wrongful conduct and the constitutional
22 violation.") (quoting Hansen v. Black, 885 F.2d 642, 646 (9th Cir. 1989)). In his amended
23 complaint, plaintiff's allegations concerning the involvement of these supervisory defendants in
24 his gang validation are too speculative and attenuated and do not set forth specific facts upon
25 which liability could be based. In this regard, plaintiff has failed to adequately allege the
26 requisite causal link between these supervisory defendants and the alleged violation of his
27 constitutional rights. Although plaintiff clearly disagrees with the court's decision to not order
28 service of his complaint on these defendants, plaintiff has not demonstrated that the court

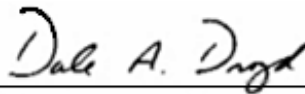
1 committed clear error or that he is otherwise entitled to reconsideration of the court's screening
2 order.

3 Similarly, as to the court's order with respect to defendants Audette, Wright, and Gower,
4 as the court previously advised plaintiff, prison officials are not required under federal law to
5 process inmate grievances in a specific way or to respond to them in a favorable manner. Even if
6 defendants delayed, denied, or erroneously screened out plaintiff's inmate grievances, they have
7 not deprived him of a federal constitutional right. This is because it is well established that
8 "inmates lack a separate constitutional entitlement to a specific prison grievance procedure."
9 Ramirez v. Galaza, 334 F.3d 850, 860 (9th Cir. 2003) (citing Mann v. Adams, 855 F.2d 639, 640
10 (9th Cir. 1988)). The allegations in plaintiff's amended complaint that these defendants failed to
11 provide him with a more substantive review of his gang validation during the inmate appeals
12 process are simply too vague and conclusory to state cognizable claims for relief. Again,
13 although plaintiff clearly disagrees with the court's decision to not order service of his complaint
14 on these defendants, plaintiff has not demonstrated that the court committed clear error or that he
15 is otherwise entitled to reconsideration of the court's screening order.

16 CONCLUSION

17 Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for reconsideration (Doc.
18 No. 18) is denied.

19 Dated: February 4, 2015

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22 DALE A. DROZD
23 UNITED STATES MAGISTRATE JUDGE

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