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

DERRICK MOSLEY,

Plaintiff,

No. 2:12-cv-2681 CKD P

vs.

BROYLES,

Defendant.

ORDER

_____ /

Plaintiff, a state prisoner proceeding pro se, commenced this action with the filing of a complaint on October 30, 2012. (ECF No. 1.) On December 10, 2012, he consented to this court’s jurisdiction pursuant to 28 U.S.C. § 636(c) and Local Rule 302. (ECF No. 6.) Plaintiff’s original complaint was dismissed and he was granted leave to file an amended complaint. (ECF No. 9.) On April 23, 2013, the undersigned dismissed the amended complaint with prejudice due to plaintiff’s failure to state a claim under 42 U.S.C. § 1983. (ECF No. 14.)

On May 14, 2013, plaintiff filed a motion for reconsideration of the judgment of dismissal. (ECF No. 16.) 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

1 manifestly unjust, or (3) if there is an intervening change in controlling law.” Id. at 1263.

2 Neither factor (1) nor (3) applies in this instance. Furthermore, the court finds
3 that, after a de novo review of this case, its order of dismissal is neither manifestly unjust nor
4 clearly erroneous. Thus plaintiff’s motion for reconsideration will be denied.

5 Also on May 14, 2013, plaintiff filed a motion to amend the complaint. (ECF No.
6 17.) As this case has been closed, this motion will be denied as well.

7 Accordingly, IT IS HEREBY ORDERED THAT:

- 8 1. Plaintiff’s motion for reconsideration (ECF No. 16) is denied; and
9 2. Plaintiff’s motion to amend (ECF No. 17) is denied.

10 Dated: May 23, 2013

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13 CAROLYN K. DELANEY
14 UNITED STATES MAGISTRATE JUDGE

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