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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

ASKIA ASHANTI,  
Plaintiff,  
v.  
BARACK OBAMA, et al.,  
Defendants.

No. 2: 14-cv-1644 KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff has consented to the jurisdiction of the undersigned. (ECF No. 6.) Pending before the court is plaintiff’s motion for reconsideration of the October 15, 2014 order denying plaintiff’s application to proceed in forma pauperis. For the following reasons, plaintiff’s motion for reconsideration is denied.

Standards For Motions To Reconsider

Although motions to reconsider are directed to the sound discretion of the court, Frito-Lay of Puerto Rico, Inc. v. Canas, 92 F.R.D. 384, 390 (D.C. Puerto Rico 1981), considerations of judicial economy weigh heavily in the process. Thus Local Rule 230(j) requires that a party seeking reconsideration of a district court’s order must brief the “new or different facts or circumstances [which] were not shown upon such prior motion, or what other grounds exist for the motion.” Id. The rule derives from the “law of the case” doctrine which provides that the

1 decisions on legal issues made in a case “should be followed unless there is substantially different  
2 evidence . . . new controlling authority, or the prior decision was clearly erroneous and would  
3 result in injustice.” Handi Investment Co. v. Mobil Oil Corp., 653 F.2d 391, 392 (9th Cir. 1981);  
4 see also Waggoner v. Dallaire, 767 F.2d 589, 593 (9th Cir. 1985), cert. denied, 475 U.S. 1064  
5 (1986).

6 Courts construing Federal Rule of Civil Procedure 59(e), providing for the alteration or  
7 amendment of a judgment, have noted that a motion to reconsider is not a vehicle permitting the  
8 unsuccessful party to “rehash” arguments previously presented, or to present “contentions which  
9 might have been raised prior to the challenged judgment.” Costello v. United States, 765 F.Supp.  
10 1003, 1009 (C.D.Cal. 1991); see also F.D.I.C. v. Meyer, 781 F.2d 1260, 1268 (7th Cir. 1986);  
11 Keyes v. National R.R. Passenger Corp., 766 F. Supp. 277, 280 (E.D. Pa. 1991). These holdings  
12 “reflect[] district courts’ concerns for preserving dwindling resources and promoting judicial  
13 efficiency.” Costello, 765 F.Supp. at 1009.

#### 14 Discussion

15 In the October 15, 2014 order, the undersigned found that plaintiff had, on at least three  
16 prior occasions, brought actions while incarcerated that were dismissed as frivolous, malicious or  
17 for failure to state a claim. (ECF No. 14 at 2.) Accordingly, the undersigned denied plaintiff’s  
18 application to proceed in forma pauperis pursuant to 28 U.S.C. § 1915(g). The undersigned  
19 further found that plaintiff did not meet the imminent danger exception to 28 U.S.C. § 1915(g).  
20 Plaintiff moves for reconsideration of this part of the October 15, 2014 order.

21 On July 11, 2014, plaintiff opened this action by filing a pleading that was not on a  
22 complaint or a habeas corpus form. (ECF No. 1.) The gravamen of this pleading appeared to be  
23 plaintiff’s claim that he was falsely accused by prison officials of possessing drugs. (Id. at 5.) On  
24 July 24, 2014, the undersigned issued an order advising plaintiff that in order to commence an  
25 action, he must file a complaint as required by Rule 3 of the Federal Rules of Civil Procedure.  
26 (ECF No. 3.)

27 In the complaint filed October 1, 2014, plaintiff again alleged that he was falsely accused  
28 by prison officials of possessing drugs. (ECF No. 13.)

1 A prisoner with three “strikes” pursuant to 28 U.S.C. § 1915(g) may proceed in forma  
2 pauperis if the prisoner is under imminent danger of serious physical injury. 28 U.S.C. § 1915(g).  
3 In the October 15, 2014 order, the undersigned found that plaintiff did not qualify for the  
4 imminent injury exception because he did not allege in either his July 11, 2014 pleading or the  
5 October 1, 2014 complaint that he was under imminent danger of serious physical injury. (ECF  
6 No. 14 at 2.) Accordingly, the undersigned denied plaintiff’s application to proceed in forma  
7 pauperis and directed him to pay the filing fee within thirty days. (Id.)

8 In the motion for reconsideration, plaintiff argues that he qualifies under the imminent  
9 injury exception. Plaintiff again alleges that he has been falsely accused by prison officials of  
10 drug possession. Plaintiff argues that he is subject to harm because he must check his wheel chair  
11 and walker on a daily basis to make sure that no drugs have been planted. (ECF No. 16 at 4.)  
12 Plaintiff also alleges that he told his friends and family not to send him mail out of fear that drugs  
13 will be planted in their letters to plaintiff. (Id.)


14 Plaintiff’s request for reconsideration does not demonstrate that he is under the imminent  
15 danger of serious physical injury. The circumstances alleged by plaintiff do not demonstrate that  
16 he has met the physical injury exception to 28 U.S.C. § 1915(g).

17 Accordingly, IT IS HEREBY ORDERED that:

- 18 1. Plaintiff’s motion for reconsideration (ECF No. 16) is denied; and  
19 2. Plaintiff is granted thirty days from the date of this order to pay the filing fee; failure to  
20 pay the filing fee will result in the dismissal of this action.

21 Dated: November 24, 2014

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KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE