1 2 3 4 5 6 7 8 UNITED STATES DISTRICT COURT 9 FOR THE EASTERN DISTRICT OF CALIFORNIA 10 11 SEAVON PIERCE, No. 2:15-cv-2650-KJM-CMK-P 12 Plaintiff. 13 v. **ORDER** 14 SACRAMENTO NEWS & REVIEW, et al., 15 16 Defendant. 17 18 Plaintiff, a state prisoner proceeding pro se, filed this civil rights action seeking 19 relief under 42 U.S.C. § 1983. ECF No. 1. On April 11, 2017, the Magistrate Judge filed 20 findings and recommendations. ECF No. 8. Therein, plaintiff was notified written objections to 21 the findings and recommendations were to be filed within twenty days of service. *Id.* No 22 objections to the findings and recommendations were filed. 23 On September 26, 2017, the court adopted the Magistrate Judge's findings and 24 recommendations in part, denying plaintiff's application for leave to proceed in forma pauperis 25 (ECF No. 3), and granting plaintiff thirty days to pay the filing fee for this action. ECF No. 9. 26 On October 16, 2017, plaintiff filed a motion for reconsideration. ECF No. 10. 27 Defendant's motion argues "No facts or legal findings exist which reflect that as of 2012 the 28 applicant as Seavon Pierce has 'filed or commenced' a [sic] action against any person or party.

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The evidence of the record reflects that matters have been 'screened.' No facts or finding conclude that a finding exist of any merits of a claim against any party as of 2012 as decided under 42 USC 1983 against a specific person or party." ECF No. 10, p. 1.

Relief under Federal Rule of Civil Procedure 60 "is to be used sparingly as an equitable remedy to prevent manifest injustice and is to be utilized only [in] extraordinary circumstances" Harvest v. Castro, 531 F.3d 737, 749 (9th Cir. 2008) (internal quotation marks and citations omitted). The moving party "must demonstrate both injury and circumstances beyond his control " *Id.* (internal quotation marks and citation omitted). Under Local Rule 230(j), the moving party must show "what new or different facts or circumstances are claimed to exist which did not exist or were not shown . . . or what other grounds exist for the motion," and "why the facts or circumstances were not shown at the time of the prior motion."

Here, plaintiff does not show new or different facts or circumstances, or other grounds for the present motion. Further, plaintiff does not explain why he did not raise his objections in response to the Magistrate Judge's findings and recommendations. As the Magistrate Judge explained in the findings and recommendations, several courts have properly determined plaintiff is barred from proceeding in forma pauperis pursuant to 28 U.S.C. § 1985(g). ECF No. 8, p. 2. This court adopted the Magistrate Judge's findings regarding plaintiff's status under 28 U.S.C. § 1985(g). ECF No. 9, pp. 1-2. Plaintiff presents no evidence here that calls those conclusions into question.

Accordingly, IT IS HEREBY ORDERED that plaintiff's motion for reconsideration (ECF No. 10) is DENIED.

DATED: October 30, 2017.

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