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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID SAMPSON HUNTER,
Plaintiff,
v.
M. KROENLEIN, et al.,
Defendants.

No. 2:16-cv-0483 CKD P

ORDER

This pro se prisoner civil rights action was dismissed without prejudice on May 9, 2016. (ECF No. 22.) On July 25, 2016, plaintiff appealed the judgment. (ECF No. 31.) On August 1, 2016, the United States Court of Appeals for the Ninth Circuit directed the district court to rule on “whether [plaintiff’s] May 18, 2016 filing is a motion listed in Federal Rule of Appellate Procedure 4(a)(4) and if so,” to resolve the motion. Hunter v. Kroenlein, No. 16-16329 (9th Cir., Aug. 1, 2016 order).

Plaintiff’s May 18, 2016 filing, styled as a declaration rather than a motion, seeks various forms of relief, including compensatory and punitive damages, emergency injunctive relief, and reinstatement of the complaint dismissed on May 9, 2016. (ECF No. 25.) Insofar as the filing

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1 may be construed as a motion for relief under Federal Rule of Civil Procedure 60(b), the court
2 addresses it per FRAP 4(a)(4).

3 A district court¹ may reconsider a ruling under either Federal Rule of Civil Procedure
4 59(e) or 60(b). See Sch. Dist. Number. 1J, Multnomah County v. ACandS, Inc., 5 F.3d 1255,
5 1262 (9th Cir. 1993). “Reconsideration is appropriate if the district court (1) is presented with
6 newly discovered evidence, (2) committed clear error or the initial decision was manifestly
7 unjust, or (3) if there is an intervening change in controlling law.” Id. at 1263. Here, the court’s
8 decision to dismiss this action without prejudice was not clearly erroneous nor manifestly unjust,
9 and none of the other factors apply.

10 Accordingly, IT IS HEREBY ORDERED that plaintiff’s motion for relief (ECF No. 25) is
11 denied.

12 Dated: October 14, 2016

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15 CAROLYN K. DELANEY
16 UNITED STATES MAGISTRATE JUDGE

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28 ¹ Plaintiff consented to the jurisdiction of a Magistrate Judge to conduct all proceedings in this
action. (ECF No. 11.)