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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

BRICE ANTHONY PEELER,
Plaintiff,
v.
KEVIN REALI, et al.,
Defendants.

No. 2:16-cv-0582 CKD P

ORDER

This prisoner civil rights action was dismissed without prejudice for failure to state a claim on September 21, 2016. (ECF No. 11.) Before the court is plaintiff’s motion for reconsideration of the judgment. (ECF No. 14.)

A district court¹ 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 manifestly unjust, or (3) if there is an intervening change in controlling law.” Id. at 1263. Here, the court’s decision to dismiss this action without prejudice was not clearly erroneous nor manifestly unjust, and none of the other factors apply.

¹ Plaintiff consented to the jurisdiction of a Magistrate Judge to conduct all proceedings in this action. (ECF No. 4.)

1 Plaintiff has also moved for an extension of time to file a notice of appeal. (ECF No. 15.)
2 Under Rule 4(a)(4) of the Federal Rules of Appellate Procedure, if a party timely files a motion
3 for reconsideration of the judgment, “the time to file an appeal runs for all parties from the entry
4 of the order disposing of the last such remaining motion.” Because plaintiff has 30 days after the
5 entry of this order to file a notice of appeal, his motion for extension of time will be denied as
6 moot.

7 Accordingly, IT IS HEREBY ORDERED that:

- 8 1. Plaintiff’s motion for reconsideration of the judgment (ECF No. 14) is denied; and
- 9 2. Plaintiff’s motion for extension of time (ECF No. 15) is denied as moot.

10 Dated: October 20, 2016



CAROLYN K. DELANEY
UNITED STATES MAGISTRATE JUDGE

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