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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSH THOMAS,  
Plaintiff,  
v.  
BRIAN ROBERTS, et al.,  
Defendants.

No. 2:16-cv-0724 CKD P

ORDER

Plaintiff, a California prisoner proceeding pro se, has filed a motion asking that the court reconsider its May 16, 2016 finding that plaintiff has “struck out” under 28 U.S.C. § 1915(g) and denying plaintiff’s request to proceed in forma pauperis. Plaintiff has consented to this court’s jurisdiction pursuant to 28 U.S.C. § 636(c) and Local Rule 302.

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

There are no new facts before the court suggesting the court should reconsider the order issued May 16, 2016. There has been no change in the law and the court’s finding that plaintiff has “struck out” and denying plaintiff’s in forma pauperis application are neither clearly

1 erroneous nor manifestly unjust. Accordingly, plaintiff's motion for reconsideration will be  
2 denied.

3 Alternatively, plaintiff asks that the court stay this action pending his appeal in 1:15-cv-  
4 0527 LJO DLB P, one of the actions the court found to be a "strike." Good cause appearing, that  
5 request will be granted.

6 Accordingly, IT IS HEREBY ORDERED that:

- 7 1. Plaintiff's motion for reconsideration (ECF No. 8) is denied.
- 8 2. Plaintiff's request that this matter be stayed is granted.
- 9 3. Plaintiff need not pay the filing fee for this matter at this time.
- 10 4. The Clerk of the Court is directed to administratively close the case.
- 11 5. Plaintiff shall inform the court within 14 days of the Ninth Circuit rendering a decision  
12 on his appeal in 1:15-cv-0527 LJO DLB P.

13 Dated: June 6, 2016

  
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CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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