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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

KRZYSZTOF F. WOLINSKI,
Plaintiff,
v.
J. LEWIS, et al.,
Defendants.

No. 2:17-cv-0583 MCE AC P

ORDER

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to this court pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On January 15, 2019, the court granted defendants’ motion for sanctions. ECF No. 36. On February 8, 2019, pursuant to the court’s order, counsel for defendants filed a declaration and an accounting of costs the Office of the Attorney General had incurred to prepare defendants’ motion for sanctions. ECF No. 37. On March 6, 2019, plaintiff filed a motion to amend or alter the order granting sanctions.¹ ECF No. 38. For the reasons stated below, the court will deny

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¹ Plaintiff’s motion to amend was filed pursuant to Federal Rule of Civil Procedure 59(e). See ECF No. 38 at 1. However, this rule relates to the reconsideration of final judgments issued, not general orders. See Fed. R. Civ. P. 59(e). Therefore, the court considers plaintiff’s motion to amend a motion for reconsideration pursuant to Local Rule 230(j).

1 plaintiff's motion. It will also order that plaintiff be sanctioned in the amount of \$1000.00.

2 I. RELEVANT FACTS

3 A. Imposition of Sanctions

4 On January 15, 2019, the court found that plaintiff's "consistent failure to adhere to court
5 rules, his intentional filing of altered paperwork with the court, and his filing of false allegations
6 regarding defendant Powell and the Office of the Attorney General, were designed to harass and
7 to cause unnecessary delay," and that plaintiff's actions had "needlessly increased the costs of
8 litigation in this matter." ECF No. 36 at 6. Statements plaintiff had made to the court regarding
9 defendant Powell and the Office of the Attorney General, as well as those regarding his attempts
10 to access the prison law library, were determined to be unsubstantiated and lacking in evidentiary
11 support. See id.

12 Given these findings, the court determined that plaintiff had violated Federal Rules of
13 Civil Procedure 11(b)(1) and 11(b)(3). See ECF No. 36 at 6. As a result, sanctions were
14 determined to be appropriate under Federal Rule of Civil Procedure 11(c)(1), 11(c)(4), and Local
15 Rule 110. See id.

16 B. Defense Counsel's Accounting Statement

17 The accounting statement submitted by defense counsel declared that to prepare the
18 motion for sanctions, he and his supervisor billed approximately \$4,420.00. See ECF No. 37 at 2.
19 This, counsel contended, was a conservative estimate. See id. Counsel proposed that plaintiff be
20 directed to pay the sanctions amount over time through his trust account, using the same
21 guidelines inmates use to pay their filing fees under 28 U.S.C. § 1915(b)(2). See id. at 3.

22 C. Plaintiff's Motion for Reconsideration

23 Plaintiff's "motion to amend or alter judgment," filed March 6, 2019, which the court
24 construes as a motion for reconsideration, asserts that sanctions order should be reconsidered
25 because plaintiff was hospitalized in March 2019. See ECF No. 38 at 2. As a result, his access to
26 the law library and his ability to make copies and access writing supplies were restricted, and he
27 was unable to properly and timely address the court's January 2019 order granting defendants'

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1 motion for sanctions. See id. at 2. Plaintiff’s motion offers no substantive reasons why the
2 sanctions order was improper. See generally id.

3 II. DISCUSSION

4 A. Plaintiff’s Motion for Reconsideration

5 The court has discretion to reconsider and vacate a prior order. Barber v. Hawaii, 42 F.3d
6 1185, 1198 (9th Cir. 1994). Reconsideration is not to be used, however, to ask the court to
7 rethink what it has already thought. United States v. Rezzonico, 32 F. Supp. 2d 1112, 1116 (D.
8 Ariz. 1998). “A party seeking reconsideration must show more than a disagreement with the
9 Court’s decision, and recapitulation of the cases and arguments considered by the court before
10 rendering its original decision fails to carry the moving party's burden.” United States v.
11 Westlands Water Dist., 134 F. Supp. 2d 1111, 1131 (E.D. Cal. 2001).

12 To succeed, a party must set forth facts or law of a strongly convincing nature to induce
13 the court to reverse its prior decision. See Kern-Tulare Water Dist. v. City of Bakersfield, 634 F.
14 Supp. 656, 665 (E.D. Cal. 1986), affirmed in part and reversed in part on other grounds, 828 F.2d
15 514 (9th Cir. 1987). When filing a motion for reconsideration, Local Rule 230(j) requires a party
16 to show the “new or different facts or circumstances claimed to exist which did not exist or were
17 not shown upon such prior motion, or what other grounds exist for the motion,” and “why the
18 facts or circumstances were not shown at the time of the prior motion.” L.R. 230(j)(3)-(4).

19 Plaintiff’s motion provides no substantive arguments in support of reconsideration. See
20 generally ECF No. 38. Plaintiff identifies no new or different material facts, and claims no legal
21 error. Instead, the motion provides excuses for plaintiff’s failure to respond to the court’s January
22 2019 order, and it relies for that purpose on documents that significantly predate that order. See
23 id. at 3-7. Accordingly, the motion will be denied.

24 B. Amount of Sanctions

25 The court accepts defense counsel’s accounting of its costs as both accurate and
26 reasonable. Nonetheless, in light of plaintiff’s status as a pro se prisoner, the court finds that
27 sanctions in the amount of \$1,000.00 are sufficient to serve the interests of deterrence. See Fed.
28 R. Civ. P. 11(b)(4) (stating sanctions must be limited to what suffices to deter repetition of

1 conduct). If defendants require a particular form of order to facilitate incremental collection of
2 these sanctions from plaintiff's prison trust account, they may submit a proposed order within 14
3 days.

4 Accordingly, IT IS HEREBY ORDERED that:

- 5 1. Plaintiff's "motion to amend or alter judgment," ECF No. 38, is DENIED;
- 6 2. Pursuant to ECF No. 36, plaintiff shall pay to defendants \$1,000.00 in fees as
7 sanctions; and
- 8 3. Within fourteen days of the date of this order, counsel for defendants may file a
9 proposed order with the court that directs the manner in which the appropriate entity shall collect
10 the sanctions amount from plaintiff's prisoner trust fund account.

11 DATED: August 1, 2019

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13 ALLISON CLAIRE
14 UNITED STATES MAGISTRATE JUDGE
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