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28IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

WALTER B. HOYE, II,

Plaintiff,

v.

CITY OF OAKLAND,

Defendant.

No. CV 07-06411 CRB

**ORDER DENYING LEAVE TO FILE
MOTION FOR RECONSIDERATION**

Plaintiff Walter Hoye moves the Court for leave to file a Motion for Reconsideration of the Court's Order re Training Materials, filed December 16, 2011 (dkt. 208). Plaintiff brings his Motion under Local Rule 7-9(b)(3), which permits a party to move for reconsideration where there has been "[a] manifest failure by the Court to consider material facts or dispositive legal arguments which were presented to the Court." See dkt. 210. Plaintiff contends that the Court's Order indicated that it was "unaware of plaintiff's Oct. 14, 2011 Supplemental Brief Re: 'Approach' (Docket #196) when making its ruling." Id. at 1.

The Court was not unaware of Plaintiff's brief, or of Defendant's simultaneous brief on the same subject (dkt. 195). As the Court stated in its Order, it carefully considered both parties' papers and arguments. See dkt. 208 at 2. The Order merely noted that the Motion included only a single sentence on the "approach" issue. See id. at 2 (citing dkt. 201 at i). That is accurate. Nonetheless, the Court did not treat the "approach" issue as having been

1 waived. The Court simply did not agree with Plaintiff’s arguments about “approach,” or
2 with his premise that the Ninth Circuit’s partial reversal, based on “[t]he City’s policy of
3 distinguishing between speech that facilitates access to clinics and speech that discourages
4 access,” was an opportunity to revisit this Court’s holding on the “approach” issue. See id. at
5 3 (internal citation omitted).

6 The Motion for Leave to File a Motion for Reconsideration is therefore DENIED.

7 **IT IS SO ORDERED.**

8 Dated: December 20, 2011

9 
10 CHARLES R. BREYER
11 UNITED STATES DISTRICT JUDGE

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