

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
Northern District of California

MICHAEL DUNN,

Plaintiff,

v.

KAMALA HARRIS,

Defendant.

No. C 11-3343 MEJ

**ORDER DENYING MOTION FOR  
RECONSIDERATION, REQUEST  
FOR DECLARATORY JUDGMENT**

(Docket Nos. 25, 26)

Plaintiff Michael Dunn, a convicted felon, brought this action against Defendant Kamala Harris, in her role as Attorney General of California, alleging that pursuant to California Penal Code section 12021.3.1, the California Department of Justice refused to return guns Plaintiff alleges to own. On October 25, 2011, the Court granted Defendant's Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). Dkt. No. 25. In its Order, the Court found that 18 U.S.C. § 922(g)(1) prohibits the possession of firearms by any person convicted of a felony, and that the Ninth Circuit, in *United States v. Vongxay*, 594 F.3d 1111, 1115 (9th Cir. 2010), has concluded that "felons are categorically different from the individuals who have a fundamental right to bear arms." Order at 4-5.

Now before the Court is Plaintiff's Motion for Reconsideration and Request for Declaratory Judgment, filed November 1, 2011. Dkt. Nos. 25, 26. To seek reconsideration of the Court's ruling, Plaintiff should have filed a request for leave to file a motion for reconsideration under Civil Local Rule 7-9. Plaintiff neither sought nor obtained leave to file his motion for reconsideration, and it should therefore be denied on that ground. However, even if the Court were to consider Plaintiff's motion on the merits, it would fail. To be successful, a party moving for leave file a motion for

1 reconsideration must establish at least one of the three bases identified in Local Rule 7–9(b): (1) a  
2 material difference in fact or law from that which was presented originally, (2) the emergence of  
3 new material facts or a change of law since the order was issued, or (3) the existence of material  
4 facts or dispositive legal arguments which were presented but not considered by the court. Civ. L.R.  
5 7–9(b). Here, Plaintiff’s motion is simply not cognizable as a motion for reconsideration because he  
6 has not identified any basis under Rule 7-9(b). Accordingly, Plaintiff’s motion is DENIED.

7 As to Plaintiff’s request for declaratory judgment, all claims have been dismissed in  
8 Defendant’s favor. Accordingly, Plaintiff’s request for declaratory judgment is DENIED AS  
9 MOOT.

10 **IT IS SO ORDERED.**

11  
12 Dated: November 3, 2011

13   
14 \_\_\_\_\_  
15 Maria-Elena James  
16 Chief United States Magistrate Judge  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL DUNN,  
Plaintiff,

Case Number: CV11-03343 MEJ

**CERTIFICATE OF SERVICE**

v.

KAMALA HARRIS et al,  
Defendant.

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on November 3, 2011, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Michael Dunn  
P.O. Box 1468  
Laytonville, CA 95454

Dated: November 3, 2011

Richard W. Wieking, Clerk  
By: Brenda Tolbert, Deputy Clerk