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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

GARY CASTRO,
Plaintiff,
v.
CITY OF UNION CITY, et al.,
Defendants.

Case No. [14-cv-00272-MEJ](#)

**ORDER RE: MOTION FOR LEAVE TO
FILE MOTION FOR
RECONSIDERATION**

Re: Dkt. No. 147

Civil Local Rule 7-9 allows a party to file a motion for leave to file a motion for reconsideration of any interlocutory order. As is relevant here, “[t]he moving party must specifically show reasonable diligence in bringing the motion, and . . . [t]he emergence of new material facts or a change of law occurring after the time of such order[.]” Civ. L.R. 79-(b)(2).

Defendants City of Union City and Officer Christopher Figueiredo seek leave to file a motion for reconsideration of the Court’s April 2016 Order denying Officer Figueiredo qualified immunity. Mot., Dkt. No. 147; *see* Order re: Mot. for Summ. J., Dkt. No. 111. Defendants’ Motion is based on the Supreme Court’s ruling in *White v. Pauly*, 137 S. Ct. 548 (2017), which Defendants contend constitutes new law regarding qualified immunity. Mot. at 4-6.

The Court cannot find Defendants acted diligently. Defendants argue their Motion is timely because it was unknown whether Plaintiff Gary Castro would prosecute his case pro se upon the withdrawal of his former counsel. *Id.* at 4; *see* Dkt. No. 125 (Nov. 22, 2016 order granting motion to withdraw). The Court did not stay this case upon the withdrawal of Plaintiff’s counsel. Thus, while Defendants may have considered the action to be in “suspended animation” (Mot. at 4), nothing prevented Defendants from seeking reconsideration as early as January 2017,

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when the Supreme Court issued its decision in *White*.¹ Because Defendants waited more than one year to request leave to file the motion for reconsideration, the Court DENIES the Motion.

IT IS SO ORDERED.

Dated: February 28, 2018



MARIA-ELENA JAMES
United States Magistrate Judge

¹ Defendants contend the case “reactiv[ed]” when the parties filed their joint case management statement on February 22, 2018. Mot. at 4. But the Court scheduled the March 1, 2018 case management conference on November 21, 2017. Dkt. No. 144. Defendants do not explain why they waited three months after the Court scheduled the CMC to file the instant Motion.