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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CRAIG ERVIN WIMBERLY,
Plaintiff,
v.
A. CUEVAS,
Defendant.

Case No. [19-cv-08316-SI](#)

**ORDER DENYING MOTION TO
ALTER OR AMEND JUDGMENT**

Re: Dkt. No. 22

On March 9, 2021, defendant’s motion for summary judgment was granted and the action was dismissed because plaintiff failed to exhaust administrative remedies before filing suit. Plaintiff now moves, under Federal Rule of Civil Procedure 59(e), to alter or amend the judgment. Docket No. 22. A motion for reconsideration under Rule 59(e) “should not be granted, absent highly unusual circumstances, unless the district court is presented with newly discovered evidence, committed clear error, or if there is an intervening change in the law.” *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999) (citation omitted) (en banc). Plaintiff does not meet this standard; his Rule 59(e) motion simply further presses his argument (that a threat of retaliation made administrative remedies unavailable) that the court already considered and rejected. The Rule 59 motion to alter or amend the judgment is DENIED. Docket No. 22.

IT IS SO ORDERED.

Dated: March 31, 2021



SUSAN ILLSTON
United States District Judge