

E-Filed 3/30/2009

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

DONG THANH VO,

Plaintiff,

v.

SUPERIOR COURT OF SANTA CLARA
COUNTY, et al.,

Defendants.

Case Number C 08-4900 JF (PVT)

ORDER¹ DENYING MOTION TO
ALTER OR AMEND JUDGMENT

[Re: docket No. 9]

On October 27, 2008, Plaintiff Dong Thanh Vo filed a request with this Court seeking an order to enjoin, set aside, and/or dismiss certain actions now proceeding in Santa Clara Superior Court. From Plaintiff's filings, it appears that his vehicle and other property were impounded after his arrest for possession of an illegal weapon. It also appears that certain fees have been assessed against Plaintiff. Plaintiff has initiated several different cases in this Court, all of which appear to relate to one or more incidents in which his vehicle was impounded by Santa Clara County law enforcement. *See, e.g., Vo. v. State of Cal., et al.*, C 08-5103; *Vo v. San Jose Police Dep't*, No. C 05-02200, 2007 WL 127984 (N.D. Cal. Jan. 12, 2007).

On the same day that he filed his request for relief, Plaintiff filed an application to

¹ This disposition is not designated for publication in the official reports.

1 proceed *in forma pauperis*. On December 12, 2008, the Court denied the application on the
2 ground that Plaintiff had not provided a basis for federal jurisdiction over his claim for relief.
3 Plaintiff did not renew his application or pay the filing fee. On January 14, 2009, the Court
4 issued an order instructing Plaintiff to file an amended complaint within thirty days, along with
5 the filing fee or with a renewed application to proceed *in forma pauperis*. On February 13, 2009,
6 Plaintiff filed a renewed application to proceed *in forma pauperis* but did not file an amended
7 pleading. The Court dismissed the action without prejudice to Plaintiff filing a new complaint.

8 Plaintiff now seeks relief from the Court's order of dismissal pursuant to Fed. R. Civ. P.
9 59(e). Reconsideration pursuant to Rule 59(e) is appropriate if: (1) the district court is presented
10 with newly discovered evidence; (2) the district court committed clear error or the initial decision
11 was manifestly unjust; or (3) there is an intervening change in controlling law. *Sch. Dist. No. 1J,*
12 *Multnomah County v. ACandS*, 5 F.3d 1255, 1263 (9th Cir. 1993). Plaintiff's motion fails to
13 present any justification for reconsideration of the Court's prior order.² Accordingly, Plaintiff's
14 motion to alter or amend the judgment will be denied. The Court reiterates that Plaintiff must
15 identify a federal statute so as to create subject matter jurisdiction. Federal district court is not
16 the appropriate forum for a tort claim or appeal of an agency action unless such claims are
17 accompanied by a claim that creates a basis for federal jurisdiction. *See Vo*, 2007 WL 127984, at
18 *1 ("Plaintiff [does not] identify a basis for the Court's subject matter jurisdiction; the parties are
19 not diverse, and the complaint does not identify a federal statute under which Plaintiff brings
20 suit.").

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27 ² Plaintiff's motion states "motion was made on the ground that: a (M) violation
28 uncomplied [sic] ct. orders those defect(ed) [sic] doesn't amount to ground for principal
challenge. However at least...differences (affect) rights, citizen right, e.g. nable [sic] access to
District Court, before/after Jud."

1 IT IS SO ORDERED.

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5 DATED: March 30, 2009

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JEREMY FOGEL
United States District Judge

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1 This Order has been served upon the following persons:

2 Dong Thanh Vo
3 Post Office Box 24
4 San Jose, CA 95103

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