

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

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

GONZALO ARAMBULA,

Plaintiff,

vs.

DARREL ADAMS, et al.,

Defendants.

No. C 10-03549 EJD (PR)

ORDER DENYING MOTION FOR
RECONSIDERATION

(Docket No. 41)

Plaintiff, a California inmate currently incarcerated at the Salinas Valley State Prison (“SVSP”) in Soledad, filed a pro se civil rights complaint under 42 U.S.C. § 1983, against prison officials for unconstitutional acts. The Court granted Defendants’ motion to revoke Plaintiff’s in forma pauperis status, and dismissed the action without prejudice pursuant to 28 U.S.C. § 1915(g). (See Docket No. 39.)

On December 16, 2011, Plaintiff filed a “motion for an objection as well [as] opposition to the Order of Granting Dismiss In Forma Pauperis Under Ground’s of Misconduct by the Judge [*sic*].” (Docket No. 41.) The Court construes this motion as a motion for reconsideration.

Motions for reconsideration should not be frequently made or freely granted; they are not a substitute for appeal or a means of attacking some perceived error of

1 the court. See Twentieth Century - Fox Film Corp. v. Dunnahoo, 637 F.2d 1338,
2 1341 (9th Cir. 1981). “[T]he major grounds that justify reconsideration involve an
3 intervening change of controlling law, the availability of new evidence, or the need
4 to correct a clear error or prevent manifest injustice.” Pyramid Lake Paiute Tribe of
5 Indians v. Hodel, 882 F.2d 364, 369 n.5 (9th Cir. 1989) (quoting United States v.
6 Desert Gold Mining Co., 433 F.2d 713, 715 (9th Cir. 1970)).

7 Rule 60(b) provides for reconsideration where one or more of the following is
8 shown: (1) mistake, inadvertence, surprise or excusable neglect; (2) newly
9 discovered evidence which by due diligence could not have been discovered before
10 the court's decision; (3) fraud by the adverse party; (4) the judgment is void; (5) the
11 judgment has been satisfied; (6) any other reason justifying relief. Fed. R. Civ. P.
12 60(b); School Dist. 1J v. ACandS Inc., 5 F.3d 1255, 1263 (9th Cir.1993).

13 Plaintiff fails to allege the provision of such rule under which reconsideration
14 is warranted; he alleges no new evidence that could not have been discovered with
15 due diligence, no mistake, inadvertence, surprise or excusable neglect, no fraud by
16 the adverse party, and no voiding of the judgment. Plaintiff’s allegation of
17 “misconduct by the judge” based on Plaintiff being “unschooled in the intricacies of
18 pleading and procedure” and the alleged unresponsiveness to his various motions is
19 unsubstantiated and has no affect on the correctness of the Court’s ruling with
20 respect to Plaintiff’s pauper status. Plaintiff presents no other reason justifying
21 relief. Accordingly, the motion for reconsideration is DENIED.

22 The Clerk shall close the file.

23
24 DATED: January 17, 2012



EDWARD J. DAVILA
United States District Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

GONZALO ARAMBULA,
Plaintiff,

Case Number: CV10-03549 EJD

CERTIFICATE OF SERVICE

v.

DARREL ADAMS, et al.,
Defendants.

_____/

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 1/18/2012, 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.

Gonzalo Arambula T-61604
Salinas Valley State Prison
P.O. Box 1050
Soledad, CA 93960-1050

Dated: 1/18/2012

Richard W. Wieking, Clerk
/s/By: Elizabeth Garcia, Deputy Clerk