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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

TYRONE WALLACE, P-48941,

Plaintiff,

v.

CCII OLIVARRIA; CCII B. SELF;
CIO R. ARMENDARIZ; LT. J.
MCNEIL; D. ARGUILEZ,

Defendants.

Case No. 16-cv-1808-BAS-PCL

**ORDER DENYING PLAINTIFF'S
MOTION FOR
RECONSIDERATION**

Presently before the Court is Plaintiff Tyrone Wallace's motion for reconsideration of this Court's August 2, 2016 Order. (ECF No. 6.) In that Order, the Court dismissed without prejudice Plaintiff's civil rights complaint brought under 42 U.S.C. § 1983 because Plaintiff failed to pay the required filing fee or request to proceed *in forma pauperis*. (ECF No. 4.) Plaintiff moves for reconsideration of that Order on the grounds that he is still waiting for the relevant prison officials to provide him his certified trust account statement. (ECF No. 6, 2:3–20.)


Reconsideration is an extraordinary remedy available only under exceptional

1 circumstances. *See Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890 (9th Cir.
2 2000); *Engleson v. Burlington N.R. Co.*, 972 F.2d 1038, 1044 (9th Cir.1994). In this
3 case, reconsideration is unnecessary because the Court dismissed the case *without*
4 *prejudice*—Plaintiff may refile his claims whenever he is ready to either (1) pay the
5 required filing fee or (2) request to proceed *in forma pauperis*. In addition, when
6 Plaintiff does refile his complaint, he can at that time correct or add claims as he
7 apparently would like to do. Finally, to the extent Plaintiff is requesting
8 reconsideration of the Court’s denial of Plaintiff’s motion to appoint counsel, this too
9 is inappropriate. The Court denied Plaintiff’s motion to appoint counsel as moot
10 because Plaintiff had not commenced the action by paying the required filing fee or
11 requesting to proceed *in forma pauperis*. Once Plaintiff has properly commenced the
12 litigation, he can consider whether he wants to again bring a motion to appoint
13 counsel.

14 For these reasons, the Court DENIES Plaintiff’s motion for reconsideration.
15 (ECF No. 6.)

16 **IT IS SO ORDERED.**

17
18 **DATED: August 11, 2016**

19 
20 **Hon. Cynthia Bashant**
21 **United States District Judge**