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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

C., et al.,  
  
Plaintiffs,  
  
v.  
  
Rady Children’s Hospital, et al.,  
  
Defendants.

Case No.: 17-cv-0846-AJB-JLB

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

**(Doc. No. 46)**

After the Court granted two motions to dismiss, granted sanctions against Plaintiff, and dismissed Plaintiff’s case, Plaintiff filed for reconsideration of these rulings. (Doc. No. 46.) Plaintiff argues that because a California Court of Appeals Court reversed his conviction, the initial allegations brought in his complaint regarding his RICO claims are vindicated. (*Id.* at 4.) Plaintiff also argues the Court’s analysis of his claims under the *Heck v. Humphrey* bar “deserve reconsideration.” (*Id.*) For the reasons stated herein, the Court **DENIES** Plaintiff’s motion. (Doc. No. 46.)

**I. BACKGROUND**

Plaintiffs’ lawsuit stems from a criminal proceeding in San Diego Superior Court in which plaintiffs’ father, Azael Chavez, was convicted for felony child abuse. (Doc. No. 14 at 6.) Plaintiffs are twin children. (*Id.*) During the course of their medical treatment at Rady Children’s Hospital, treating physicians suspected child abuse and reported it—as mandated under law. (*Id.*) Chavez sued defendants twice in Superior Court, once for failing to produce medical records, and once for various causes of action including a breach of

1 fiduciary duties. (*Id.*) Plaintiffs voluntarily dismissed the first case after Rady moved for  
2 sanctions. (*Id.*) During the second case, defendants moved to strike all allegations under  
3 the anti-SLAPP statute because the treating physicians who reported the suspected child  
4 abuse were protected. (*Id.*) The Court tentatively ruled in favor of defendants, but plaintiffs  
5 again withdrew the case before the Court held a hearing. (*Id.*) The Superior Court ordered  
6 sanctions against plaintiffs’ attorney and Chavez. (*Id.*) Plaintiffs then filed the instant suit  
7 in federal court.

8 In the first amended complaint (“FAC”), plaintiffs bring five causes of action:  
9 (1) RICO, (2) conspiracy to violate RICO, (3) conspiracy to interfere with civil rights,  
10 under 42 U.S.C. § 1985(2), (4) conspiracy to interfere with civil rights, under 42 U.S.C.  
11 § 1985(3), and (5) declaratory judgment. (Doc. No. 11.) The Court, in granting two motions  
12 to dismiss, dismissed Plaintiff’s complaint entirely and granted sanctions.

13 In his reconsideration motion, Plaintiff alleges the Court of Appeal reversed his  
14 criminal conviction warranting reconsideration of his arguments. (Doc. No. 46.) The Court  
15 of Appeal reversed in June 2018. In several recently-filed declarations from Defendants,  
16 however, the Court was informed that in January 2019 Plaintiff pleaded guilty in Court to  
17 Penal Code § 273(A)(A). (Doc. No. 59-1 at 31.) Defendants also reasserted their arguments  
18 from their motions to dismiss. Notably, Plaintiff failed to respond to Defendants’  
19 arguments.

## 20 II. LEGAL STANDARDS

21 A Court may grant relief from a final order if “newly discovered evidence that, with  
22 reasonable diligence, could not have been discovered in time to move for a new trial under  
23 Rule 59(b).” Federal Rule of Civil Procedure 60(b)(2).

## 24 III. DISCUSSION

25 Finding that Plaintiff indeed pleaded guilty to similar crimes he was found guilty of  
26 in his now-overturned conviction, the Court finds any reconsideration as to these issues  
27 moot. Plaintiff argues that with his conviction overturned, the *Heck* bar no longer applies.  
28 He writes: “[w]ith the reversal of the criminal conviction by the court of appeals, that

1 obstacle should be no bar to plaintiff’s RICO cause of action.” (Doc. No. 46 at 6.) However,  
2 with his guilty plea now in place, the *Heck* bar still remains.

3 Plaintiff also argues the Court of Appeals’ decision vindicated his underlying  
4 allegations. (Doc. No. 46 at 8.) He argues “[t]he appellate decision changes dramatically  
5 the legal analysis favorable to his cases. Plaintiff’s legal position has always be[e]n that  
6 the police, doctors and prosecutors worked hand in hand to manufacture, and did achieve,  
7 an ignoble prosecution and illegal conviction. (*Id.*) While the Court of Appeals did overrule  
8 his conviction finding his confession was made during a custodial interrogation without  
9 being mirandized first, (Doc. No. 46-2 at 3), his later guilty plea still negates the crux of  
10 his underlying allegations. To allow Plaintiff to reconsider his RICO claim based solely on  
11 the Court of Appeals ruling would cast dispute on—and imply the invalidity of—his guilty  
12 plea.

13 Thus, the Court finds that Plaintiff’s guilty plea still bars the Court from visiting his  
14 RICO claims as it could undermine his conviction. *See Oberg v. Asotin Cnty*, 310 F. App’x  
15 144, 145–46 (9th Cir. 2009) (finding the district court properly dismissed plaintiff’s RICO  
16 claims under *Heck*); *Katakis v. Chandler*, No. 2:15-02526 WBS KJN, 2016 WL 1056962,  
17 at \*2 (E.D. Cal. Mar. 17, 2016); *Franco v. City and Cnty of San Francisco*, No. C 10–  
18 04768 WHA, 2012 WL 3010953, at \*3 (N.D. Cal. July 23, 2012) (“The rationale of *Heck*  
19 applies to RICO and conspiracy claims.”); *Bhatia v. Wig*, No. C-10-0072 SBA, 2010 U.S.  
20 Dist. LEXIS 95782 (N.D. Cal. Sep. 14, 2010); *Boulware v. Dep’t of Ins.*, Civ. No. 09-4325-  
21 R(E) MLR, 2009 WL 3271060, at \*5 (C.D. Cal. Oct. 8, 2009) (“*Heck* also applies to RICO  
22 claims.”); *Garcia v. Scribner*, Civ. No. 97-0742 CRB, 1998 WL 397895, at \*2 (N.D. Cal.  
23 July 10, 1998) (finding *Heck* “applies with equal force to civil RICO claims”).

24 Finally, Plaintiff requests the Courts’ prior award of sanctions under Federal Rule of  
25 Civil Procedure 11 be recalled. (Doc. No. 46 at 9.) Other than the arguments used in support  
26 of overturning the Court’s order on the dismissal motions, Plaintiff provides little support  
27 to favor recalling the Court’s sanctions award. Plaintiff points to misrepresentations  
28 allegedly made by the Court. (Doc. No. 46 at 6–7.) However, Plaintiff fails to negate the

1 reasons the Court found sanctions appropriate in the first instance, which included an  
2 analysis of both the Ninth Circuit’s two-part test and the *Colorado-River* doctrine.  
3 (*See* Doc. No. 42 at 6–9.) Under the Court’s analysis, the Court determined that Plaintiff’s  
4 theory was frivolous because the complaint was “replete with bold and conclusory  
5 allegations lacking supporting evidence or facts.” (*Id.* at 6.) Even if a few cases hold the  
6 *Heck* bar does not apply to civil RICO claims, (*id.* at 4 (listing cases)), that does not give  
7 Plaintiff a basis to file a complaint unsupported by facts rather than conclusions.


8 Thus, the Court will not reverse its prior ruling regarding sanctions.

9 **V. CONCLUSION**

10 The Court finds Plaintiff’s later guilty plea essentially moots Plaintiff’s arguments  
11 for reconsideration. His guilty plea is still barred by *Heck* as the Court would have to cast  
12 doubt on Plaintiff’s guilty plea to consider the arguments in his complaint. Moreover, the  
13 Court is not convinced a reversal of its sanctions ruling is necessary. Thus, the Court  
14 **DENIES** Plaintiff’s motion for reconsideration. (Doc. No. 46.)

15 **IT IS SO ORDERED.**

16 Dated: July 30, 2019

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18 Hon. Anthony J. Battaglia  
19 United States District Judge  
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