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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 MYCHAL ANDRA REED,

12 Plaintiff,

13 vs.

14 DANIEL PARAMO, et al.,

15 Defendants.  
16  
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Case No.: 18-CV-361 JLS (DEB)

**ORDER DENYING MOTION FOR  
RECONSIDERATION**

(ECF Nos. 230, 232)

18 Presently before the Court is Plaintiff Mychal Andra Reed's Reply to This Court's  
19 April 6, 2021 Order ("Mot.," ECF No. 232), which the Court construes as a motion for  
20 reconsideration of its April 6, 2021 Order (the "Order," ECF No. 230). Having considered  
21 carefully Plaintiff's arguments and the applicable law, the Court **DENIES** Plaintiff's  
22 Motion.

23 **BACKGROUND**

24 Plaintiff, a pro se inmate proceeding *in forma pauperis*, initiated this action alleging  
25 civil rights violations under 42 U.S.C. § 1983 on February 9, 2018. *See* ECF No. 1.  
26 Defendants' fully briefed motion for summary judgment currently is pending before  
27 Magistrate Judge Daniel E. Butcher. *See* ECF No. 181.

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1 Plaintiff has filed numerous motions concerning his access to the prison's law  
2 library, as well as other issues. On March 8, 2021, the Court issued an order denying three  
3 such motions, which the Court construed as motions (1) for reconsideration of Magistrate  
4 Judge Butcher's orders denying law library access, (2) to compel Defendants to provide  
5 Plaintiff with legal supplies, and (3) to replace Magistrate Judge Butcher. *See generally*  
6 ECF No. 222. On March 26, 2021, Plaintiff filed a motion seeking reconsideration of the  
7 March 8, 2021 Order. *See* ECF No. 229. On April 6, 2021, the Court granted in part and  
8 denied in part the motion. *See* Order. Plaintiff subsequently filed the present Motion,  
9 which seeks reconsideration of the Order. *See* ECF No. 232.

### 10 LEGAL STANDARD

11 Federal Rule of Civil Procedure 59(e) permits a party to move a court to alter or  
12 amend its judgment. In the Southern District of California, a party may apply for  
13 reconsideration “[w]henver any motion or any application or petition for any order or  
14 other relief has been made to any judge and has been refused in whole or in part.” Civ.  
15 L.R. 7.1(i)(1). The moving party must provide an affidavit setting forth, *inter alia*, “what  
16 new or different facts and circumstances are claimed to exist which did not exist, or were  
17 not shown, upon such prior application.” *Id.*

18 “A district court may grant a Rule 59(e) motion if it ‘is presented with newly  
19 discovered evidence, committed *clear error*, or if there is an intervening change in the  
20 controlling law.” *Wood v. Ryan*, 759 F.3d 1117, 1121 (9th Cir. 2014) (internal quotation  
21 marks omitted) (quoting *McDowell v. Calderon*, 197 F.3d 1253, 1255 (9th Cir. 1999) (en  
22 banc)) (emphasis in original). “Clear error or manifest injustice occurs when ‘the  
23 reviewing court on the entire record is left with the definite and firm conviction that a  
24 mistake has been committed.’” *Young v. Wolfe*, CV 07-03190 RSWL-AJWx, 2017 WL  
25 2798497, at \*5 (C.D. Cal. June 27, 2017) (quoting *Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d  
26 950, 955 (9th Cir. 2013)).

27 Reconsideration is an “extraordinary remedy, to be used sparingly in the interests of  
28 finality and conservation of judicial resources.” *Kona Enters., Inc. v. Estate of Bishop*, 229

1 F.3d 877, 890 (9th Cir. 2000). Ultimately, whether to grant or deny a motion for  
2 reconsideration is in the “sound discretion” of the district court. *Navajo Nation v. Norris*,  
3 331 F.3d 1041, 1046 (9th Cir. 2003) (citing *Kona Enters.*, 229 F.3d at 883). A party may  
4 not raise new arguments or present new evidence if it could have reasonably raised them  
5 earlier. *Kona Enters.*, 229 F.3d at 890 (citing *389 Orange St. Partners v. Arnold*, 179 F.3d  
6 656, 665 (9th Cir. 1999)).

### 7 ANALYSIS

8 Plaintiff’s Motion “respectfully disagrees” with the April 6, 2021 Order. Mot. at 1.  
9 Specifically, Plaintiff again takes issue with the Court’s reliance on declarations submitted  
10 by Defendants to establish that Plaintiff had access to the law library, arguing that the Court  
11 should have “request[ed] evidence from defendant to validate/verify (prove) said  
12 declarations were not perjury, via logbooks.” *Id.* at 2. Plaintiff claims that Defendants  
13 presented “false documents” and therefore violated California Penal Code section 134. *Id.*  
14 at 3. Accordingly, Plaintiff asks the Court to (1) amend its Order denying Plaintiff’s motion  
15 to compel Defendants to provide Plaintiff with law library access and (2) request logbooks  
16 from Defendants. *Id.* at 3.

17 The Court finds no basis to reconsider its decision in light of Plaintiff’s arguments.  
18 Even at the summary judgment stage, a party opposing a motion may present evidence by  
19 declaration if it is made on personal knowledge and sets out facts that would be admissible  
20 in evidence. *See Fed. R. Civ. P. 56(c)(4)*. The form of the evidence itself need not be  
21 admissible at trial; rather, so long as the content of the evidence could be presented in  
22 admissible form at trial, the evidence is permissible. *Fraser v. Goodale*, 342 F.3d 1032,  
23 1036–37 (9th Cir. 2003). Here, Defendants’ declarants averred to the contents of prison  
24 records under penalty of perjury based on their personal review of those records.  
25 Defendants need not submit the records themselves at this time, but such records likely  
26 would be admissible at trial; therefore, sworn declarations concerning that evidence are  
27 satisfactory at this stage in the litigation. Accordingly, the Court **DENIES** the Motion to  
28 the extent it argues for reconsideration based on Defendants’ failure to provide, or this

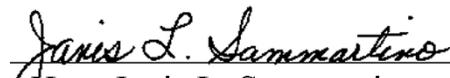
1 Court's failure to request, logbooks or other direct evidence of Plaintiff's law library  
2 access.

3 **CONCLUSION**

4 In light of the foregoing, the Court **DENIES** Plaintiff's Motion (ECF No. 232). This  
5 Court will entertain no further motions for reconsideration on this issue. Should Plaintiff  
6 continue to feel he is being denied access to the law library by Defendants, he may file a  
7 new motion seeking to compel access with Magistrate Judge Daniel E. Butcher.

8 **IT IS SO ORDERED.**

9 Dated: April 28, 2021

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11 Hon. Janis L. Sammartino  
12 United States District Judge  
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