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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MAURICE GRAYTON,  
  
Plaintiff,  
  
v.  
  
TIFFANY L. CARROLL et al.,  
  
Defendants.

Case No.: 20-cv-1584-CAB-WVG  
  
**ORDER DENYING MOTION FOR RECONSIDERATION**  
  
[Doc. No. 5]

On August 19, 2020 this Court issued an Order denying Plaintiff’s application for leave to proceed in forma pauperis and sua sponte dismissing Plaintiff’s complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). [Doc. No. 3.] On August 24, 2020, Plaintiff filed a motion for reconsideration. [Doc. No. 5.]

“Although Rule 59(e) permits a district court to reconsider and amend a previous order, the rule offers an extraordinary remedy, to be used sparingly in the interests of finality and conservation of judicial resources.” Kona Enters., Inc. v. Estate of Bishop, 229 F.3d 877, 890 (9th Cir. 2000) (internal quotation marks and citation omitted). A Rule 59(e) motion for reconsideration may not be used to raise arguments or present evidence for the

1 first time when they could reasonably have been raised earlier in the litigation. Id. “[A]fter  
2 thoughts” or “shifting of ground” do not constitute an appropriate basis for reconsideration.  
3 Ausmus v. Lexington Ins. Co., No. 08–CV–2342–L, 2009 WL 2058549, at \*2 (S.D. Cal.  
4 July 15, 2009). In other words, a Rule 59(e) motion does not give parties a “second bite at  
5 the apple.” See Weeks v. Bayer, 246 F.3d 1231, 1236–37 (9th Cir. 2001); see also  
6 Keweenaw Bay Indian Cmty. v. State of Mich., 152 F.R.D. 562, 563 (W.D. Mich. 1992)  
7 (“[W]here the movant is attempting to obtain a complete reversal of the court’s judgment  
8 by offering essentially the same arguments presented on the original motion, the proper  
9 vehicle for relief is an appeal.”).

10 Here, Plaintiff’s application to proceed in forma pauperis was denied because  
11 Plaintiff indicated he receives \$4,400 in monthly disability payments. Plaintiff’s complaint  
12 was dismissed sua sponte because Plaintiff failed to state a claim and without leave to  
13 amend as frivolous. Upon additional review, the Court does not find that Plaintiff  
14 presented any verifiable factual or evidentiary support to justify vacating its previous order.  
15 Plaintiff’s motion for reconsideration is **DENIED**.

16 It is **SO ORDERED**.

17 Dated: September 9, 2020



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19 Hon. Cathy Ann Bencivengo  
20 United States District Judge  
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