

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge Robert E. Blackburn**

Civil Case No. 10-cv-02862-REB-KLM

DEAN CARBAJAL,

Plaintiff,

v.

MYRL SERRA, et al.,

Defendants.

**ORDER OVERRULING PLAINTIFF'S OBJECTION
AND DENYING MOTION TO RECONSIDER**

Blackburn, J.

This matter is before me on the plaintiff's **Contemporaneous Objection To the Court's Order (DOC # 323) and Motion for Reconsideration** [#334]¹ filed May 11, 2012. I overrule the objection and deny the motion to reconsider.

The plaintiff's objection pertains to non-dispositive matters that were referred to the magistrate judge for resolution. Under 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(a), I may modify or set aside any portion of an order of a magistrate judge that I find to be clearly erroneous or contrary to law.

The plaintiff objects to an order [#323] in which the magistrate judge addressed the plaintiff's motion for a writ of habeas corpus ad testificandum and the plaintiff's petition for issuance of subpoenas. Given the relevant circumstances, I conclude that the resolution of this motion and petition, as stated in the order [#323] of the magistrate judge, is both

¹ "[#334]" is an example of the convention I use to identify the docket number assigned to a specific paper by the court's case management and electronic case filing system (CM/ECF). I use this convention throughout this order.

lawful and appropriate. The order of the magistrate judge [#323] is not clearly erroneous or contrary to law. Therefore, I overrule the plaintiff's objection [#334].

The bases for granting reconsideration are extremely limited:

Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice. Thus, a motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law. It is not appropriate to revisit issues already addressed or advance arguments that could have been raised in prior briefing.

Servants of the Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000) (citations omitted). In his motion, the plaintiff does not establish any of these bases for reconsideration of the court's order [#323].

THEREFORE, IT IS ORDERED as follows:

1. That the objections stated in the plaintiff's **Contemporaneous Objection To the Court's Order (DOC # 323) and Motion for Reconsideration** [#334] filed May 11, 2012, read as an objection to the order [#323] of the magistrate judge, are **OVERRULED**; and
2. That the plaintiff's **Contemporaneous Objection To the Court's Order (DOC # 323) and Motion for Reconsideration** [#334] filed May 11, 2012, read as a motion for reconsideration, is **DENIED**.

Dated May 14, 2012, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge