

**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,

Plaintiffs,

v.

MYRL SERRA, in his individual capacity, et al.,

Defendants.

ORDER DENYING MOTION FOR RECONSIDERATION

Blackburn, J.

This matter is before me on the **Plaintiff's Contemporaneous Objection To the Court's Order Adopting Recommendation of Magistrate Judge's Denial of Injunction [Doc. #414] [#463]**¹ filed March 22, 2013. Defendants Jeffrey Watts and Edward Gruninger filed a response [#466]. I deny the motion.²

On November 13, 2012, the magistrate judge filed a recommendation [#414] addressing the plaintiff's **Corrected Petition for Federal Injunction Pursuant to FED. R. Civ. P. 65** [#375]. The magistrate judge recommended that the petition be denied.

¹ “[#463]” 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.

² Because plaintiff is proceeding pro se, I continue to construe his pleadings and other filings more liberally and held them to a less stringent standard than formal pleadings drafted by lawyers. **See *Erickson v. Pardus***, 551 U.S. 89, 94, 127 S. Ct. 2197, 2200, 167 L.Ed.2d 1081 (2007); ***Andrews v. Heaton***, 483 F.3d 1070, 1076 (10th Cir. 2007); ***Hall v. Bellmon***, 935 F.2d 1106, 1110 (10th Cir. 1991) (citing ***Haines v. Kerner***, 404 U.S. 519, 520-21, 92 S.Ct. 594, 595-96, 30 L.Ed.2d 652 (1972)). However, I have not acted as an advocate for the plaintiff.

On March 6, 2013, I entered an order [#446] adopting the recommendation. In his present objection [#463], the plaintiff objects to my order [#446].

Essentially, the plaintiff asks that I reverse field, reject the recommendation, and grant the relief requested by the plaintiff in his motion for an injunction. I read the plaintiff's filing as a motion under FED. R. CIV. P. 60(b) for relief from the court's order [#446]. Rule 60(b) relief requires a showing of exceptional circumstances warranting relief from a judgment or order. ***Van Skiver v. United States***, 952 F.2d 1241, 1243 (10th Cir. 1991). A litigant shows exceptional circumstances by satisfying one or more of the grounds for relief enumerated in Rule 60(b). ***Id.*** at 1243-44. In his motion, the plaintiff does not satisfy any of the grounds for relief enumerated in Rule 60(b).

Alternatively, the plaintiff's motion can be read as a motion to reconsider. 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 [#446].

THEREFORE, IT IS ORDERED that the **Plaintiff's Contemporaneous Objection To the Court's Order Adopting Recommendation of Magistrate Judge's Denial of Injunction [Doc. #414] [#463]** filed March 22, 2013, read either as a motion under FED. R. CIV. P. 60(b) or as a motion to reconsider, is **DENIED**.

Dated April 2, 2013, at Denver, Colorado.

BY THE COURT:



Robert E. Blackburn
United States District Judge