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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

ROBERT R. REAN,  
#70571-65  
  
Plaintiff,  
  
vs.  
  
CITY OF LAS VEGAS, *et al.*,  
  
Defendants.

2:10-cv-01094-RLH-RJJ

**ORDER**

On November 29, 2010, the court dismissed certain claims in this *pro se* civil rights action and allowed others to proceed (docket #13). Before the court is plaintiff's motion for district judge to reconsider order (docket #13) as well as plaintiff's motion for appointment of counsel (docket #15).

**I. Plaintiff's Motion for Appointment of Counsel**

Plaintiff has filed a motion seeking the appointment of counsel in this case (docket #15). A litigant in a civil rights action does not have a Sixth Amendment right to appointed counsel. *Storseth v. Spellman*, 654 F.2d 1349, 13253 (9<sup>th</sup> Cir. 1981). In very limited circumstances, federal courts are empowered to request an attorney to represent an indigent civil litigant. The circumstances in which a court will make such a request, however, are exceedingly rare, and the court will make the request under

1 only extraordinary circumstances. *United States v. 30.64 Acres of Land*, 795 F.2d 796, 799-800 (9<sup>th</sup> Cir.  
2 1986); *Wilborn v. Escalderon*, 789 F.2d 1328, 1331 (9<sup>th</sup> Cir. 1986).

3 A finding of such exceptional circumstances requires that the court evaluate both the  
4 likelihood of success on the merits and the plaintiff's ability to articulate his claims in *pro se* in light of  
5 the complexity of the legal issues involved. Neither factor is dispositive, and both must be viewed  
6 together in making a finding. *Terrell v. Brewer*, 935 F.2d 1015, 1017 (9<sup>th</sup> Cir. 1991)(citing *Wilborn*,  
7 *supra*, 789 F.2d at 1331). The district court has considerable discretion in making these findings.  
8 Plaintiff has articulated his claims well to date, and the legal issues do not appear to be complex. The  
9 court will not enter an order directing the appointment of counsel. Plaintiff's motion for the appointment  
10 of counsel is denied.

## 11 **II. Motion for District Judge to Reconsider Order**

12 Where a ruling has resulted in final judgment or order, a motion for reconsideration may  
13 be construed either as a motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure  
14 59(e), or as a motion for relief from judgment pursuant to Federal Rule 60(b). *School Dist. No. 1J*  
15 *Multnomah County v. AC&S, Inc.*, 5 F.3d 1255, 1262 (9<sup>th</sup> Cir. 1993), *cert. denied* 512 U.S. 1236 (1994).

16 Under Fed. R. Civ. P. 60(b) the court may relieve a party from a final judgment or order  
17 for the following reasons:

18 (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly  
19 discovered evidence which by due diligence could not have been  
20 discovered in time to move for a new trial under Rule 59(b); (3) fraud  
21 (whether heretofore denominated intrinsic or extrinsic),  
22 misrepresentation, or other misconduct of an adverse party; (4) the  
23 judgment is void; (5) the judgment has been satisfied, released, or  
24 discharged, or a prior judgment upon which it is based has been reversed  
25 or otherwise vacated, or it is no longer equitable that the judgment should  
26 have prospective application; or (6) any other reason justifying relief  
from the operation of the judgment.

Motions to reconsider are generally left to the discretion of the trial court. *See Combs v. Nick Garin*  
*Trucking*, 825 F.2d 437, 441 (D.C. Cir. 1987). In order to succeed on a motion to reconsider, a party  
must set forth facts or law of a strongly convincing nature to induce the court to reverse its prior  
decision. *See Kern-Tulare Water Dist. v. City of Bakersfield*, 634 F. Supp. 656, 665 (E.D. Cal. 1986),

1 *aff'd in part and rev'd in part on other grounds* 828 F.2d 514 (9<sup>th</sup> Cir. 1987). Rule 59(e) of the Federal  
2 Rules of Civil Procedure provides that any “motion to alter or amend a judgment shall be filed no later  
3 than 28 days after entry of the judgment.” Furthermore, a motion under Fed. R. Civ. P. 59(e) “should  
4 not be granted, absent highly unusual circumstances, unless the district court is presented with newly  
5 discovered evidence, committed clear error, or if there is an intervening change in the controlling law.”  
6 *Herbst v. Cook*, 260 F.3d 1039, 1044 (9<sup>th</sup> Cir. 2001), *quoting McDowell v. Calderon*, 197 F.3d 1253,  
7 1255 (9<sup>th</sup> Cir. 1999).

8 In the order of November 29, 2010, the court dismissed certain counts, including count  
9 I, of plaintiff’s amended complaint for failure to state a claim, and dismissed certain  
10 defendants—including Chief Dixon, because plaintiff set forth no allegations that Chief Dixon personally  
11 participated in any civil rights violation, and a district attorney, because plaintiff set forth no allegations  
12 against that defendant (docket #13). Plaintiff has failed to make an adequate showing under either Rule  
13 60(b) or 59(e) that this court’s order dismissing certain counts and defendants should be reversed.

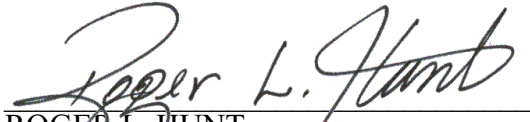
14 **III. Conclusion**

15 **IT IS THEREFORE ORDERED** that plaintiff’s motion for district judge to reconsider  
16 order (docket #16) is **DENIED**.

17 **IT IS FURTHER ORDERED** that plaintiff’s motion for appointment of counsel (docket  
18 #15) is **DENIED**.

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DATED this 4<sup>th</sup> day of January, 2011.

  
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ROGER L. HUNT  
Chief United States District Judge