

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

BOBBY LEE MONTGOMERY,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, et al.,

Defendants.

Case No. 2:11-cv-02079-MMD-PAL

ORDER

Before the Court is Plaintiff's Motion for Relief from Judgment Order Adopting Report and Recommendation. (Dkt. no. 40.) For the reasons discussed herein, the Motion is denied.

Plaintiff relies on Fed. R. Civ. P. 60 in seeking reconsideration. Under Rule 60(b), a court may relieve a party from a final judgment, order or proceeding only in the following circumstances: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence; (3) fraud; (4) a void judgment; (5) a satisfied or discharged judgment; or (6) any other reason justifying relief from the judgment. *Backlund v. Barnhart*, 778 F.2d 1386, 1387 (9th Cir. 1985). A motion for reconsideration must set forth the following: (1) some valid reason why the court should revisit its prior order; and (2) facts or law of a "strongly convincing nature" in support of reversing the prior decision. *Frasure v. United States*, 256 F. Supp. 2d 1180, 1183 (D. Nev. 2003). On the other hand, a motion for reconsideration is properly denied when the movant fails to establish any reason justifying relief. *Backlund v. Barnhart*, 778 F.2d 1386, 1388 (9th Cir.

1 1985) (holding that a district court properly denied a motion for reconsideration in which
2 the plaintiff presented no arguments that were not already raised in his original motion).
3 Motions for reconsideration are not “the proper vehicles for rehashing old arguments,”
4 *Resolution Trust Corp. v. Holmes*, 846 F. Supp. 1310, 1316 (S.D. Tex. 1994) (footnotes
5 omitted), and are not “intended to give an unhappy litigant one additional chance to sway
6 the judge.” *Durkin v. Taylor*, 444 F. Supp. 879, 889 (E.D. Va. 1977).

7 Plaintiff claims that he made a mistake in not objecting to the Report and
8 Recommendation. However, Plaintiff did file an objection to the Magistrate Judge’s
9 Report and Recommendation and the Court did consider his objection in issuing its
10 Order. (See Order, dkt. no. 36; Plaintiff’s Objection to Report and Recommendation, dkt.
11 no. 34.) Plaintiff also rehashes previous arguments that the Court had considered and
12 rejected.

13 It is therefore ordered that Plaintiff’s Motion for Relief from Judgment Order
14 Adopting Report and Recommendation is denied. (Dkt. no. 40.)

15 ENTERED THIS 10th day of December 2013.

16
17 

18 _____
MIRANDA M. DU
UNITED STATES DISTRICT JUDGE