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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Harold D. Harden,  
Plaintiff  
v.  
Corrections Officer Soboro, et al.,  
Defendants

Case No.: 2:14-cv-00560-JAD-NJK

**Order Denying Motion for  
Reconsideration (Docs. 50, 93)**

10 Pro se plaintiff Harold D. Harden, who is a prisoner in the custody of the Nevada Department  
11 of Corrections, has two cases pending before me.<sup>1</sup> In each, he has raised the issue of mental  
12 incompetence, citing his alleged schizophrenia as a reason I should reconsider the various orders  
13 denying his request for counsel.

14 As I recently explained in Mr. Harden's other case, the Ninth Circuit requires a showing of  
15 "substantial evidence" before the procedures to determine competency are triggered.<sup>2</sup> Mr. Harden  
16 did not satisfy that burden in his other case; nor has he satisfied it here. He has not submitted any  
17 declaration of his mental incompetence. He has not provided any medical records or sworn  
18 statements by physicians. In short, he has not offered anything resembling "substantial evidence."<sup>3</sup>

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20 <sup>1</sup> The second case is *Harden v. Soboro*, 2-14-cv-2008-JAD-VCF (*Harden II*).

21 <sup>2</sup> See *Harden II*, Doc. 10 at 1-2 (citing *Allen v. Calderon*, 408 F.3d 1150, 1153 (9th Cir. 2005)).  
22 I incorporate that order here by reference.

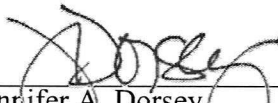
23 <sup>3</sup> See *Allen*, 408 F.3d at 1153 (identifying facts that constituted "substantial evidence" of mental  
24 incompetence); see also *Shack v. Knipp*, 2012 WL 4111652, at \*5-7 (S.D. Cal. Sept 17, 2012)  
25 (concluding that a plaintiff who did not submit a letter from his treating physician, did not submit  
26 substantial evidence); *Lavery v. Singh*, 2011 WL 5975934, at \*3 (S.D. Cal. Nov. 29, 2011) (concluding  
27 that the plaintiff failed to submit substantial evidence by relying solely on his own declaration, which  
28 was refuted by medical records provided by the defendant); *McElroy v. Cox*, 2009 WL 4895350, at \*3  
(E.D. Cal. Dec 11, 2009) (concluding that the plaintiff failed to submit substantial evidence because,  
even though he submitted medical records, he demonstrated an ability to function while properly  
medicated and there was no nexus between his mental disorder and his ability to articulate his claims).

1 Harden has also not demonstrated how his motion warrants the “extraordinary remedy”<sup>4</sup> of  
2 reconsideration. I denied his initial requests<sup>5</sup> for counsel because counsel are appointed for indigent  
3 civil litigants only in “exceptional circumstances,”<sup>6</sup> and Mr. Harden did not show that those  
4 exceptional circumstances exist here.<sup>7</sup> For me to reconsider my order, Mr. Harden has to present  
5 newly discovered evidence, show how my decision was clearly erroneous, or point to a change in the  
6 controlling law.<sup>8</sup> Mr. Harden has done none of these things. Accordingly, his motion for  
7 reconsideration is denied.

8 **Conclusion**

9 Accordingly, it is HEREBY ORDERED that Harden’s Motion for Reconsideration [**Doc. 50**]  
10 **is DENIED** and his Motion to Provide Decision on Motion for Reconsideration [**Doc. 93**] **is**  
11 **DENIED AS MOOT.**

12 DATED May 21, 2015.

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15 Jennifer A. Dorsey  
16 United States District Judge  
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23 <sup>4</sup> *Carroll v. Nakatani*, 342 F.2d 713, 715 (9th Cir. 2003).

24 <sup>5</sup> *See* Doc 10, 11.

25 <sup>6</sup> *Palmer v. Valdez*, 560 F.3d 965, 970 (9th Cir. 2009).

26 <sup>7</sup> *See* Doc. 16.

27 <sup>8</sup> *389 Orange Street Partners v. Arnold*, 179 F.3d 656, 665 (9th Cir. 1999).