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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

7 ERVIN MIDDLETON,)
8 Plaintiff(s),) Case No. 2:16-cv-00622-RFB-NJK
9 vs.) **ORDER**
10 CITIBANK, N.A., INC.,)
11 Defendant(s).)
12

13 Pending before the Court is Plaintiff's motion for magistrate judge to reconsider. Docket No.
14 4. The Court finds this motion properly resolved without oral argument. *See* Local Rule 78-2. For
15 the reasons discussed below, Plaintiff's motion is **DENIED**.

16 On March 21, 2016, Plaintiff filed an application for leave to proceed *in forma pauperis*,
17 along with a complaint. Docket No. 1. On April 22, 2016, the Court granted Plaintiff leave to
18 proceed *in forma pauperis* and screened the complaint pursuant to 28 U.S.C. § 1915(e). Docket No.
19 2. The Court dismissed Plaintiff's complaint with leave to amend. *Id.* at 3. On April 29, 2016,
20 Plaintiff filed a motion to reconsider, seeking reconsideration of the Court's April 22, 2016, Order.
Docket No. 4.

21 Reconsideration is appropriate if the court: (1) is presented with newly discovered evidence;
22 (2) committed clear error, or the initial decision was manifestly unjust; or (3) if there is an
23 intervening change in controlling law. *Dixon v. Wallowa County*, 336 F.3d 1013, 1022 (9th Cir.
24 2003). Reconsideration is "an extraordinary remedy, to be used sparingly and in the interests of
25 finality and conservation of judicial resources." *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d
26 877, 890 (9th Cir. 2000) (internal quotation marks omitted). A motion for reconsideration is
27 properly denied where it presents no new arguments. *See Backlund v. Barnhart*, 778 F.2d 1386,
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1 1388 (9th Cir. 1985). By the same token, however, it “may not be used to raise arguments or present
2 evidence for the first time when they could reasonably have been raised earlier in the litigation.”
3 *Kona Enterprises, Inc.*, 229 F.3d at 890.

4 Construing Plaintiff’s motion liberally, the Court finds that it fails to meet the standard for
5 reconsideration. Plaintiff’s motion states dates and makes allegations that are not in his complaint.
6 Upon reviewing Plaintiff’s complaint and the Court’s prior order, the Court finds it prior order was
7 appropriate.

8 Plaintiff’s argument appears to depend on a misconception regarding the Court’s prior order.
9 The Court’s prior order did not result in the dismissal of Plaintiff’s case. *See* Docket No. 4 at 1.
10 Rather, the Court granted Plaintiff leave to file an Amended Complaint, if he believes that he can
11 correct the noted deficiencies. Docket No. 2 at 3. Accordingly, the filing of an Amended
12 Complaint, with all the relevant dates and allegations, is the proper procedural vehicle for Plaintiff
13 to remedy the defective complaint.

14 **III. CONCLUSION**

15 For the reasons discussed above, Plaintiff’s motion, Docket No. 4, is **DENIED**. Plaintiff
16 may file an Amended Complaint, no later than May 20, 2016, if he believes he can correct the
17 deficiencies the Court noted in its prior order.

18 **IT IS SO ORDERED.**

19 DATED: May 3, 2016

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21 NANCY J. KOPPE
22 United States Magistrate Judge
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