

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ORTEGA,

14-cv-09703 (JGK)

Plaintiff,

MEMORANDUM OPINION AND  
ORDER

- against -

MUTT,

Defendant.

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JOHN G. KOELTL, District Judge:

On March 24, 2017, this Court in a Memorandum Order and Opinion dismissed this action without prejudice for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). Ortega v. Mutt, No. 14-CV-09703 (JGK), 2017 WL 1133429, at \*2 (S.D.N.Y. Mar. 24, 2017). The plaintiff has moved to reopen the case. See Dkt. 45.

"The decision to grant or deny a motion for reconsideration rests within the sound discretion of the district court." Vincent v. Money Store, No. 03 Civ. 2876 (JGK), 2011 WL 5977812, at \*1 (S.D.N.Y. Nov. 29, 2011) (internal quotation marks omitted). "Reconsideration of a previous order by the Court is an extraordinary remedy to be employed sparingly." Anwar v. Fairfield Greenwich Ltd., 800 F. Supp. 2d 571, 572 (S.D.N.Y. 2011) (internal quotation marks omitted). "The major grounds justifying reconsideration are an intervening change of

controlling law, the availability of new evidence, or the need to correct a clear error or prevent manifest injustice." Virgin Atl. Airways, Ltd. v. Nat'l Mediation Bd., 956 F.2d 1245, 1255 (2d Cir. 1992) (internal quotation marks omitted); see also Gym Door Repairs, Inc. v. Young Equip. Sales, Inc., No. 15-CV-4244 (JGK), 2016 WL 6652733, at \*1 (S.D.N.Y. Nov. 10, 2016).

The plaintiff has presented no basis for reconsideration of the Memorandum Order and Opinion dismissing the action. The plaintiff does not argue that the dismissal was in error. The gist of the plaintiff's motion is that his claims are meritorious. But the Court dismissed the action because the plaintiff refused to prosecute the action. The plaintiff refused to proceed with the lawsuit despite this Court's repeated warnings that the consequences would be dismissal. See Ortega, 2017 WL 1133429, at \*1-2. The Court adopted the least restrictive means of dealing with the plaintiff's refusal to participate in discovery, namely by dismissing the lawsuit without prejudice. See id. at \*2. If the plaintiff wishes to pursue his claims, he should file another lawsuit, but he has failed to present any basis for the reconsideration of the dismissal without prejudice of this action.

Accordingly, the motion is **denied**. The Clerk is directed to close all pending motions.

**SO ORDERED.**

**Dated: New York, New York  
May 9, 2017**

\_\_\_\_\_/s/\_\_\_\_\_  
**John G. Koeltl**  
**United States District Judge**