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5 UNITED STATES DISTRICT COURT
6 EASTERN DISTRICT OF WASHINGTON

7 VALIENTE LOPEZ,

8 Plaintiff,

9 v.

10 LAWRENCE MARTIN,

11 Defendant.

NO: 4:17-CV-5015-RMP

ORDER DENYING CONSTRUED
MOTION FOR RECONSIDERATION

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13 By Order filed June 9, 2017, the Court dismissed Plaintiff's complaint and
14 entered judgment. ECF Nos. 8 and 9. Mr. Lopez had failed to comply with 28
15 U.S.C. § 1915(a)(2) by providing a statement of his inmate account (or institutional
16 equivalent) for the six months immediately preceding the submission of his
17 complaint on February 16, 2017, and he did not pay the full filing fee to commence
18 this action as required by 28 U.S.C. § 1914.

19 By letter received on June 30, 2017, Plaintiff asks the Court to reconsider the
20 dismissal order, re-open his case and allow him to proceed. The Court liberally
21 construes this *pro se* letter as a Motion for Reconsideration, ECF No. 10. *See*

1 *Haines v. Kerner*, 404 U.S. 519, 520 (endorsing liberal construction of *pro se*
2 pleadings). The motion was considered without oral argument in the context of the
3 full docket and the relevant law.

4 A motion for reconsideration may be reviewed under either Federal Rule of
5 Civil Procedure 59(e) (motion to alter or amend a judgment) or Rule 60(b) (relief
6 from judgment). *Sch. Dist. No. 1J v. ACandS, Inc.*, 5 F.3d 1255, 1262 (9th Cir.
7 1993). “A district court may properly reconsider its decision if it ‘(1) is presented
8 with newly discovered evidence, (2) committed clear error or the initial decision
9 was manifestly unjust, or (3) if there is an intervening change in controlling law.’”
10 *Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d 950, 955 (9th Cir. 2013) (quoting *School*
11 *Dist. No. 1J*, 5 F.3d at 1263). “There may also be other, highly unusual,
12 circumstances warranting reconsideration.” *School Dist. No. 1J*, 5 F.3d at 1263.

13 On April 11, 2017, and June 9, 2017, documents were sent electronically to
14 Plaintiff at the Coyote Ridge Corrections Center. By letter received on June 30,
15 2017, Plaintiff advises the Court that he had been transferred to the Monroe
16 Correctional Complex shortly after he submitted his complaint in February 2017.

17 Plaintiff clearly and repeatedly was instructed that it was his responsibility to
18 keep the Court apprised of his current address. There is no record of Plaintiff
19 having notified the Court of his transfer to the Monroe Correctional Complex prior
20 to June 30, 2017. Therefore, Plaintiff alone is responsible for not receiving the
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1 Order to Comply with Filing Fee Requirements issued on April 11, 2017, ECF No.
2 7.

3 The Court finds no basis to reconsider the Order entered June 9, 2017, and to
4 re-open this case. The dismissal of this action was without prejudice. If Plaintiff
5 wishes to file a new and separate action in which he promptly complies with the
6 filing fee requirements, he is free to do so. This action shall remain **CLOSED**.
7 **IT IS ORDERED** the construed Motion for Reconsideration, ECF No. 10, is
8 **DENIED. IT IS FURTHER ORDERED** that the superfluous application to
9 proceed *in forma pauperis*, ECF No. 11, is **STRICKEN**.

10 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,
11 and forward copies to Plaintiff at his last known address. The Court certifies that
12 any appeal of this decision would not be taken in good faith.

13 **DATED** July 12, 2017.

14
15 *s/ Rosanna Malouf Peterson*
16 ROSANNA MALOUF PETERSON
17 United States District Judge
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