

1 HONORABLE RONALD B. LEIGHTON

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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT TACOMA

9 ALBERT KARKUNOV,

10 Plaintiff,

11 v.

12 JULIEANN C SMITH,

13 Defendant.

CASE NO. C15-5231 RBL

ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION

14 THIS MATTER is before the Court on Plaintiff Karkunov's Motion for Reconsideration  
15 of the Court's Order Denying his Motion for a TRO [Dkt. #7].

16 The WSP and DOC currently hold several boxes of legal files that Karkunov believes are  
17 essential to his prospective Civil Rights Claim and Habeas Petition. These boxes are scheduled  
18 for imminent destruction. Karkunov filed a Motion for a TRO under FRCP 65(b) [Dkt. #1] in an  
19 effort to preserve them. Karkunov did not file an actual complaint.

20 This court referred Karkunov's Motion to Magistrate Judge Creatura. The Magistrate  
21 recommended the court dismiss Karkunov's claim without prejudice, due to the following  
22 procedural defects [Dkt. #3]:

- 23 1. Karkunov did not file an actual complaint; he filed only a motion.
- 24

1 2. Karkunov has not paid a filing fee or filed an application to proceed *in forma*  
2 *pauperis*.

3 3. Karkunov did not sign his motion.

4 This court adopted the Magistrate Judge’s recommendations, and dismissed the case.  
5 However, Karkunov’s objections to the recommendation were delayed in the mail, and so this  
6 Court issued its order before receiving or reviewing the objections. The Court has now reviewed  
7 these objections, and the prior ruling stands.

8 Motions for reconsideration are disfavored, and should generally only be granted when  
9 the outcome after reconsideration might be different than the initial decision:

10 (1) *Standard*. Motions for reconsideration are **disfavored**. The court will  
11 ordinarily deny such motions in the absence of a showing of **manifest error in**  
12 **the prior ruling** or a showing of new facts or legal authority which could not  
13 have been brought to its attention earlier with reasonable diligence.

14 LCR 7(h) (emphasis added)

15 Karkunov ‘s objections to the R and R do not address, much less cure the procedural  
16 defects that led to the dismissal of this case.

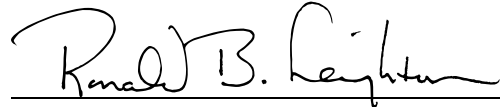
17 Most critically, Karkunov has failed to invoke this Court’s subject matter jurisdiction.  
18 Karunov claims that he “understood that [he] could bring [his] action in the U.S. District Court  
19 for the Western District of Washington if one or more of the named defendants is located within  
20 [that] district.” [Dkt. #5]. This may address personal jurisdiction over the defendants, but it does  
21 not address the Court’s subject matter jurisdiction. Karkunov sought a TRO under the Federal  
22 Rules, but citing them does not give the court jurisdiction over the underlying dispute.

23 Furthermore, even if Rule 65 applied, Karkunov must demonstrate that he is entitled to  
24 relief based on “specific facts in an affidavit or verified complaint.” FRCP 65(b)(1)(A). But

1 Karkunov has not filed *any* complaint, much less a verified one demonstrating a right to relief in  
2 this Court.

3 The Motion for Reconsideration is DENIED.

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5 Dated this 22<sup>nd</sup> day of June, 2015.

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8 Ronald B. Leighton  
9 United States District Judge  
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