

UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
WASHINGTON

**Gregory Allen v. Washington State Department of Corrections, Sgt.
Jason Kaehler, and Does 1-10**

Allen · No. 23-CV-5746 BHS · Decided January 14, 2026

OPINION

1 2 3 4 5 UNITED STATES DISTRICT COURT 6 WESTERN DISTRICT OF WASHINGTON
AT TACOMA 7 GREGORY ALLEN, CASE NO. 23-CV-5746 BHS 8 Plaintiff, ORDER 9 v. 10
WASHINGTON STATE DEPARTMENT OF CORRECTIONS; 11 and SGT. Jason Kaehler; and
DOES 1- 10, 12 Defendant. 13 14 THIS MATTER is before the Court on plaintiff Gregory Allen’s
motion for 15 reconsideration, Dkt. 55, of the Court’s Order, Dkt.

53, granting defendants’ motion for 16 summary judgment, Dkt. 45. Allen’s motion reiterates the
claims and arguments he made 17 on summary judgment, but his counsel has included 48 pages of
exhibits he did not 18 include in his summary judgment response. Dkt. 56. 19 The gist of his
argument is that his ADA claim for a single cell to accommodate 20 his mental disabilities is
supported by the now-complete record, which demonstrates that 21 some health care providers
“supported his need for a single cell.” Dkt.

55 at 8. Allen also 22 1 reiterates his claim that the DOC unreasonably limited his use of a
wheelchair while he 2 was housed in the IMU (because he would not accept other than a single
cell in general 3 population). He asserts that the ADA required DOC to accommodate his physical
4 disability by providing a wheelchair notwithstanding prison policies on the use of 5 wheelchairs
in the IMU.

Dkt. 55 at 9. 6 Allen argues he has evidence that defendant Kaehler knew of his need for a 7
wheelchair, and discriminated against him by removing his wheelchair because of that 8 need and
because Kaehler did not like him. Id. at 10. He argues that this assertion is 9 supported by the
person who actually altered Allen’s HSR, PA Myers, who did not 10 remember changing the HSR
or whether she discussed it with Kaehler.

Id. 11 Motions for reconsideration are disfavored and will ordinarily be denied absent a 12
showing of (a) manifest error in the ruling, or (b) facts or legal authority which could not 13 have
been brought to the Court’s attention earlier with reasonable diligence. Local Rules, 14 W.D.
Wash., LCR 7(h)(1). A “manifest” error is one that is “plain and indisputable, and 15 that amounts
to a complete disregard of the controlling law or the credible evidence in the 16 record.” Black’s
Law Dictionary 622 (9th ed.

2009). 17 Reconsideration is an “extraordinary remedy, to be used sparingly in the interests 18 of finality and conservation of judicial resources.” *Kona Enters., Inc. v. Est. of Bishop*, 19 229 F.3d 877, 890 (9th Cir. 2000). “[A] motion for reconsideration should not be granted, 20 absent highly unusual circumstances, unless the district court is presented with newly 21 discovered evidence, committed clear error, or if there is an intervening change in the 22 controlling law.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 1 873, 880 (9th Cir.

2009). Mere disagreement with a previous order is an insufficient basis 2 for reconsideration, and reconsideration may not be based on evidence and legal 3 arguments that could have been presented at the time of the challenged decision. *Haw. 4 Stevedores, Inc. v. HT & T Co.*, 363 F. Supp. 2d 1253, 1269 (D. Haw. 2005). 5 DOC and Kaehler respond that the Allen’s “new” evidence is not a basis for 6 reconsideration, as it was available to him for years and he failed to include it.

Dkt. 60 at 7 3 (citing *Cachil Dehe Band of Wintun Indians of Colusa Indian Cmty. v. Calif.*, 649 8 F.Supp.2d 1063, 1070 (E.D. Cal. 2009) (“For purposes of a motion for reconsideration, 9 evidence is not ‘new’ if it was in the moving party’s possession or could have been 10 discovered prior to the court’s ruling.”)) 11 They also argue, persuasively, that Allen has not shown that the Court’s 12 determinations on his ADA single cell accommodation and wheelchair access claims 13 against DOC were manifest error, or that it erred in concluding that Kaehler is qualifiedly 14 immune from Allen’s § 1983 claim against him.

Dkt. 60. 15 The Court agrees on each point. The evidence is not new, and the ADA does not 16 require the DOC to provide Allen a single cell. The person who altered his HSR, PA 17 Meyers, is not a party. Allen has not cited a “robust consensus” of persuasive authority 18 clearly establishing an unqualified right to a wheelchair in the circumstances he alleges, 19 leaving Kaehler entitled to qualified immunity.

See Dkt. 60 at 7. And, as defendants point 20 out, Allen has yet to distinguish *Hunt v. Pierson*, 730 Fed. Appx. 210 (5th Cir. 2018). 21 Allen’s motion for reconsideration, Dkt. 55, is DENIED. The case remains closed. 22 IT IS SO ORDERED. 1 Dated this 14th day of January, 2026. A 2 3 BENJAMIN H. SETTLE 4 United S tates District Judge 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22