

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Hunter v. Sacramento County

Hunter · No. 2:22-cv-1520-DJC-JDP (P) · Decided February 28, 2025

SUMMARY

The United States District Court for the Eastern District of California denied Brandon Eugene Hunter’s motion for reconsideration of \$650 in costs assessed after he failed to appear for a noticed deposition. The court held that his claimed medical incapacitation and lack of legal materials did not establish grounds for reconsideration under Federal Rule of Civil Procedure 60(b) or Local Rule 230(j). The court concluded that the costs were properly taxed against him as the non-prevailing party.

OPINION

(PC) Hunter v. Sacramento County

PER CURIAM.

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8 UNITED STATES DISTRICT COURT

9 FOR THE EASTERN DISTRICT OF CALIFORNIA

10 11 BRANDON EUGENE HUNTER, Case No. 2:22-cv-1520-DJC-JDP (P) 12 Plaintiff, 13 v.
ORDER

14 SACRAMENTO COUNTY,

15 Defendant. 16

17 Plaintiff, who is a civil detainee and proceeding without counsel, has filed a motion for 18
reconsideration of the costs assessed against him. ECF No. 39. In August 2024, defendant filed a
19 motion to compel arguing that plaintiff has not responded to any written discovery and failed to
20 appear at his deposition. ECF No. 29. Plaintiff did not file a timely a response, so on October 7,
21 2024, I ordered plaintiff to (1) to show cause why this action should not be dismissed for his 22
failure to comply with court orders and failure to prosecute, and (2) to file a response to 23
defendant’s motion. ECF No. 30. I also warned plaintiff that failure to comply with the court 24
order would result in a recommendation that this action be dismissed. Id. After plaintiff failed to
25 respond again, I recommended that this action be dismissed for failure to comply with court 26
orders and failure to prosecute. ECF No. 32. Plaintiff filed no objections, and the court adopted 27
the recommendations and closed this action on January 10, 2025. ECF No. 33. 28 1 After the case
closed, defendant timely filed a bill of costs. ECF No. 35. The bill was for 2 a \$650 charge for
plaintiff’s failure to appear at his noticed deposition. Id. On February 4, 2025, 3 the Clerk of Court
taxed costs in the amount of \$650 against plaintiff. For the following reasons, 4 plaintiff’s motion

for reconsideration is denied. 5 Under Rule 60(b), the court may grant reconsideration of a final judgment and any order 6 based on: (1) mistake, inadvertence, surprise, or excusable neglect; (2) newly discovered evidence 7 which, with reasonable diligence, could not have been discovered within ten days of entry of 8 judgment; and (3) fraud, misrepresentation, or misconduct of an opposing party. See Fed. R. Civ. P. 60(b)(1)-(3). A motion for reconsideration on any of these grounds must be brought “within a 10 reasonable time.” Fed. R. Civ. P. 60(c)(1). Motions for reconsideration should be granted only in 11 rare circumstances. *Defenders of Wildlife v. Browner*, 909 F. Supp. 1342, 1351 (D. Ariz. 1995). 12 Mere disagreement with a previous order is an insufficient basis for reconsideration. See *Leong v. Hilton Hotels Corp.*, 689 F. Supp. 1572, 1573 (D. Haw. 1988). 14 Additionally, Local Rule 230(j) requires that, when a party makes a motion for 15 reconsideration, the party must show “what new or different facts or circumstances are claimed to 16 exist or were not shown upon such prior motion, or what other grounds exist for the motion” and 17 “why the facts and circumstances were not shown at the time of the prior motion.” “A motion for 18 reconsideration should not be granted, absent highly unusual circumstances, unless the district 19 court is presented with newly discovered evidence, committed clear error, or if there is an 20 intervening change in the controlling law.” *Marlyn Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 880 (9th Cir. 2009) (internal quotation marks and citation omitted). 22 Here, plaintiff moves for reconsideration of the imposition of costs on two grounds. ECF

23 No. 39. First, he argues that he was medically incapacitated and not mentally fit to proceed with

24 the deposition. *Id.* Second, he argues that he was denied legal materials during his treatment. *Id.* 25 Federal Rule of Civil Procedure 54(d)(1) provides that “costs . . . should be allowed to the 26 prevailing party.” Fed. R. Civ. P. 54(d)(1). “Rule 54(d) creates a presumption for awarding costs 27 to prevailing parties; the losing party must show why costs should not be awarded.” *Save Our 28 Valley v. Sound Transit*, 335 F.3d 932, 944-45 (9th Cir. 2003). Eastern District of California 1 | Local Rule 292(b) states that a prevailing party may serve and file a bill of costs “[w]ithin 2 | fourteen (14) days after entry of judgment or order under which costs may be claimed[.]” “The 3 | party against whom costs are claimed may, within seven (7) days from the date of service, file 4 | specific objections to claimed items with a statement of grounds for objection.” Local Rule 5 | 292(c). “If no objection is filed, the Clerk shall proceed to tax and enter costs.” Local Rule 6 | 292(d). “On motion filed and served within seven (7) days after notice of the taxing of costs has 7 | been served, the action of the Clerk may be reviewed by the Court as provided in Fed. R. Civ. P. 8 | 54(d).” Local Rule 292(e). 9 In this case, while defendant filed his bill of costs within fourteen days after entry of 10 | judgment, plaintiff failed to file either objections to defendant’s bill of costs or a motion for 11 | review by the court within seven days after costs were taxed. Nevertheless, the court will 12 | consider the merits of plaintiff’s motion for reconsideration. 13 Plaintiff’s argument that he was medically incapacitated does not relieve him

of his 14 | obligations to litigate this action. Defendant filed its motion to compel in August 2024, yet 15 | plaintiff did not respond to either defendant's motion or court orders until February 2025. 16 | Plaintiff argues that he was medically incapacitated and without legal materials when the 17 | deposition was scheduled in July 2024, but he does not indicate that he has been incapacitated 18 | since then or otherwise incapable of responding to court's orders. 19 Plaintiff has not established that the amount of costs imposed is inaccurate, or that an 20 | amount exceeding the costs imposed was deducted from his prison trust account. The court finds 21 | that there are no new facts or circumstances to warrant reconsideration, and that the \$650 in costs 22 | was properly assessed against plaintiff as the non-prevailing party. 23 Accordingly, it is hereby ORDERED that plaintiff's motion for reconsideration, ECF No. 24 | 39, is denied. 95 IT IS SO ORDERED. 26 (1 Sty — Dated: _ February 27, 2025 ow——

27 JEREMY D., PETERSON

UNITED STATES MAGISTRATE JUDGE