

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

MICHAEL S. GORBHEY,

Plaintiff,

v.

Case No: 5:23-cv-429-WFJ-PRL

BRIAN J. DAVIS, et al.,

Defendants.

ORDER

This cause is before the Court on Plaintiff's Motion to Reconsider, (Doc. 11), which seeks reconsideration of the Court's Order denying him leave to appeal *in forma pauperis* (Doc. 10). For the reasons set forth below, the Motion to Reconsider will be denied.

District courts are afforded considerable discretion to reconsider prior decisions. See *Harper v. Lawrence Cnty.*, 592 F.3d 1227, 1231–32 (11th Cir. 2010) (discussing reconsideration of interlocutory orders); *Lamar Advert. of Mobile, Inc. v. City of Lakeland*, 189 F.R.D. 480, 488–89, 492 (M.D. Fla. 1999) (discussing reconsideration generally and under Federal Rule of Civil Procedure 54(b)); *Sussman v. Salem, Saxon & Nielsen, P.A.*, 153 F.R.D. 689, 694 (M.D. Fla. 1994) (discussing reconsideration under Rule 59(e) and Rule 60(b)). Courts in this District recognize “three grounds justifying reconsideration of an order: (1) an intervening change in controlling law; (2) the

availability of new evidence; and (3) the need to correct clear error or manifest injustice.” *McGuire v. Ryland Grp., Inc.*, 497 F. Supp. 2d 1356, 1358 (M.D. Fla. 2007) (quotation omitted); *Montgomery v. Fla. First Fin. Grp., Inc.*, No. 6:06-cv-1639-Orl-31KRS, 2007 WL 2096975, at *1 (M.D. Fla. July 20, 2007).

“Reconsideration of a previous order is an extraordinary measure and should be applied sparingly.” *Scelta v. Delicatessen Support Servs., Inc.*, 89 F. Supp. 2d 1311, 1320 (M.D. Fla. 2000). “[M]otions for reconsideration should not be used to raise arguments which could, and should, have been previously made.” *Id.* (quotation omitted). Stated differently, “[a] party who fails to present its strongest case in the first instance generally has no right to raise new theories or arguments in a motion for reconsideration.” *McGuire*, 497 F. Supp. 2d at 1358 (quotation omitted). To permit otherwise would “essentially afford[] a litigant two bites at the apple.” *Am. Home Assurance Co. v. Glenn Estess & Assocs., Inc.*, 763 F.2d 1237, 1239 (11th Cir. 1985) (quotation omitted).

In his Motion to Reconsider, Plaintiff repeats the claims in his Complaint. *See* Docs. 1 and 11. Plaintiff has failed to provide a basis upon which this Court should reconsider its Order.

Accordingly, Plaintiff’s Motion for Reconsideration (Doc. 11) is **DENIED**.¹

DONE and **ORDERED** in Tampa, Florida on April 15, 2024.

¹ Plaintiff’s motion also seeks to renew his motion to appoint counsel, requests sanctions on “Defendants FBOP & the United States,” and an “urgent” hearing on the merits. (Doc. 11 at 5–8). Upon due consideration, those requests are also **DENIED**.



WILLIAM F. JUNG
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Pro Se Party