

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

NOV 3 2020

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JASPER CROOK,

Plaintiff-Appellant,

v.

RICARDO AGUILAR; MAPFRE
INSURANCE,

Defendants-Appellees.

No. 20-55726

D.C. No.

5:20-cv-00914-DMG-KK

Central District of California,
Riverside

ORDER

On September 23, 2020, the court dismissed this appeal for failure to prosecute because appellant had not paid the filing and docketing fees or filed a motion to proceed in forma pauperis. *See* 9th Cir. R. 42-1.

Appellant now moves to reinstate the appeal, but does not include proof that the filing and docketing fees have been paid or a motion to proceed in forma pauperis. The court therefore does not entertain the pending motion to reinstate (Docket Entry No. 6).

This case remains closed.

FOR THE COURT:

**MOLLY C. DWYER
CLERK OF COURT**

**By: Monica Fernandez
Deputy Clerk
Ninth Circuit Rule 27-7**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

JS-6

Case No. ED CV 20-914-DMG (KKx) Date May 27, 2020

Title Jasper Crook v. Ricardo Aguilar, et al. Page 1 of 1

Present: The Honorable DOLLY M. GEE, UNITED STATES DISTRICT JUDGE

KANE TIEN

Deputy Clerk

NOT REPORTED

Court Reporter

Attorneys Present for Plaintiff(s)

None Present

Attorneys Present for Defendant(s)

None Present

**Proceedings: IN CHAMBERS—ORDER DISMISSING THE ACTION FOR LACK OF
SUBJECT MATTER JURISDICTION**

On May 1, 2020, the Court ordered Plaintiff Jasper Crook to show cause (“OSC”) why this action should not be dismissed for lack of subject matter jurisdiction due to failure to show that complete diversity exists. [Doc. # 8.]

Four days after the Court’s deadline, on May 19, 2020, Plaintiff responded to the OSC. [Doc. # 9]. In his response, Plaintiff explicitly asserts that he is a citizen of California and that one of the Defendants, Ricardo Aguilar, is also a citizen of California. *Id.* Because Plaintiff has not shown complete diversity, the Court lacks subject matter jurisdiction over this action. *See* 28 U.S.C. § 1332.

This action therefore is **DISMISSED without prejudice.**

IT IS SO ORDERED.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. ED CV 20-914 DMG (KKx) Date July 1, 2020

Title Jasper Crook v. Ricardo Aguilar, et al. Page 1 of 2

Present: The Honorable DOLLY M. GEE, UNITED STATES DISTRICT JUDGE

<u>KANE TIEN</u>	<u>NOT REPORTED</u>
Deputy Clerk	Court Reporter

Attorneys Present for Plaintiff(s)
None Present

Attorneys Present for Defendant(s)
None Present

**Proceedings: IN CHAMBERS—ORDER RE PLAINTIFF'S MOTION FOR
RECONSIDERATION [13]**

On May 27, 2020, the Court dismissed without prejudice this action for lack of subject matter jurisdiction due to lack of complete diversity of citizenship. *See* 28 U.S.C. § 1332. On June 10, 2020, *pro se* Plaintiff Jasper Crook filed a "Motion for Reconsideration" that asserts several arguments for the Court to assert subject matter jurisdiction or, in the alternative, requests leave to amend his Complaint to drop Defendant Ricardo Aguilar from the suit and assert his claims only against Defendant MAPRE Insurance. [Doc. # 13.]

Rule 60(b) provides that a court may relieve a party from any prior order or decision for a number of reasons including, but not limited to, (1) mistake, inadvertence, surprise, or excusable neglect, (2) newly discovered evidence that could not have been discovered with reasonable diligence, and (3) any other reason that justifies relief. Fed. R. Civ. P. 60(b)(1), (6). Under Local Rule 7-18, a party may seek reconsideration only on the grounds of (1) a material difference in fact or law from that presented to the court before the decision that in the exercise of reasonable diligence could not have been known to the party moving for reconsideration at the time of the decision; (2) the emergence of new material facts or a change of law occurring after the time of the decision; or (3) a manifest showing of a failure to consider material facts presented to the court before the decision. C.D. Cal. L. R. 7-18. A party may *not* move for reconsideration by repeating arguments previously made to the court.

Plaintiff does not explain why he did not raise his arguments for subject matter jurisdiction in his Response to the Court's Order to Show Cause ("OSC") instead of raising them for the first time in a Motion for Reconsideration. In any event, his argument that only minimal diversity is required is unavailing, as 28 U.S.C. section 1332 requires complete diversity. Plaintiff also cites an Alaska state court case for Alaska state court jurisdictional requirements, which are not the same as or pertinent to federal court jurisdictional requirements. *See* Mot. at 6 [Doc. # 13]. Finally, that a state cannot restrict the federal court's equity jurisdiction is not relevant to whether Plaintiff has established complete diversity under 28 U.S.C. section 1332.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES—GENERAL

Case No. ED CV 20-914 DMG (KKx)

Date July 1, 2020

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Having considered Plaintiff's arguments, the Court finds no legal reason to reconsider its Order dismissing the case without prejudice for lack of subject matter jurisdiction.

Plaintiff's request for leave to amend his Complaint is also insufficiently supported. The Supreme Court has noted that Rule 21 provides courts with the authority "to allow a dispensable nondiverse party to be dropped at any time, even after judgment has been rendered." *Grupo Dataflux v. Atlas Glob. Grp., L.P.*, 541 U.S. 567, 572-73 (2004) (quoting *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 832 (1989)). But Plaintiff has not shown that Aguilar is a "dispensable nondiverse party." *Id.* Dismissal of dispensable nondiverse parties should be exercised sparingly after careful consideration of whether such a dismissal will prejudice any of the parties in the litigation. *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 837-38 (1989). Plaintiff's Motion for Reconsideration does not address any of the facts or factors relevant to a finding that Aguilar is a dispensable party. See *Nam Soon Jeon v. Island Colony Partners*, 892 F. Supp. 2d 1234, 1240 (D. Haw. 2012) (describing and applying factors under Rule 19(b)). Based on the Complaint's allegations, it appears that Aguilar, who is the holder of an insurance policy with MAPRE Insurance and the person involved in the vehicle collision which gave rise to the damages at issue in this case, is not likely to be a dispensable party.

Accordingly, the Court **DENIES** Plaintiff's Motion for Reconsideration and request for leave to amend his Complaint. This Order is without prejudice to Plaintiff refiling his action in state court.

IT IS SO ORDERED.