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9 **UNITED STATES DISTRICT COURT**
 10 **DISTRICT OF NEVADA**

11
12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 RYAN W. PAYNE,

16 Defendant.

2:16-CR-00046-GMN-PAL

**GOVERNMENT’S RESPONSE IN
 OPPOSITION TO PAYNE’S
 EMERGENCY MOTION TO
 RECONSIDER DENIAL OF
 DEFENDANT RYAN W. PAYNE’S
 MOTION TO COMPEL
 ELECTRONIC ACCESS TO LEGAL
 MATERIALS AND THE ABILITY TO
 COMMUNICATE
 TELEPHONICALLY WITH
 DEFENSE COUNSEL IN A
 CONFIDENTIAL MANNER (ECF No.
 600)**

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21 **CERTIFICATION: This Response is timely filed.**

22 The United States, by and through the undersigned, respectfully submits
 23 its Response in Opposition To Defendant Payne’s Emergency Motion To
 24

1 Reconsider Denial of Defendant Ryan W. Payne’s (“Payne’s”) Motion to Compel
2 Electronic Access to Legal Materials and the Ability to Communicate
3 Telephonically with Defense Counsel in a Confidential Matter (ECF No. 600)
4 (hereinafter “Motion”). Defendant’s Motion should be denied for two reasons: (1)
5 he presents nothing new; and (2) the issue is moot.

6 **RESPONSE**

7 This Court issued an Order (ECF. No. 590) denying Payne’s first
8 Emergency Motion to Compel Access (“First Motion”) (ECF No. 446), noting that
9 Payne was in custody pending trial in the District of Oregon in *United States v.*
10 *Bundy, Payne, et al.*; No. 3:16-cr-00051-BR (“the Oregon case”). This Court found
11 that the Oregon Court made “extraordinary accommodations” to facilitate trial
12 preparation in that case and that Payne failed to show that he has been unable to
13 “procure meaningful access to counsel or discovery materials” in light of those
14 accommodations. ECF No. 590 at 2.

15 Payne filed this Motion seeking to reconsider the Order, claiming that the
16 Court cannot simply deny his First Motion but must either grant it or order a
17 pretrial conference. ECF No. 600 at 4. Payne is wrong and the Motion should be
18 denied. His recourse is to file an objection with the district court; not to rehash
19 the issue before this Court.

20 No rule allows generally for the filing of motions to reconsider and
21 defendant provides no authority for filing this one except some general language
22 about inherent authority that was cobbled together from inapt cases addressing
23

1 issues wholly distinct from those that Payne raises here. *See* ECF No. 600 at 4.
2 The local rules regarding civil practice, however, are informative.

3 Motions for reconsideration are disfavored. A movant must not
4 repeat arguments already presented unless (and only to the
5 extent) necessary to explain controlling, intervening law or to
argue new facts. A movant who repeats argument will be
subject to appropriate sanctions.

6 LR 59-1(b).

7 While this is not a civil case, the same rationale should govern; otherwise,
8 the Court simply invites endless litigation for no meaningful purpose. Here, Payne
9 makes no showing of new evidence, facts or law; he simply disagrees with the
10 Court's Order. His recourse in that regard is to file an objection with the district
11 court (LR IB 3-1), not reread arguments under the guise of a motion to
12 reconsider. Because Payne shows nothing new, the Motion should be denied.

13 At all events, however, the issue is moot. On July 19, 2016, Payne entered
14 a guilty plea in the Oregon case with that Court setting his sentencing hearing for
15 November 18, 2016. Oregon Case, Minute Order, ECF No. 904. Thereafter, and
16 in a separate Order issued on July 12, 2016, the Oregon Court revoked its Order of
17 Detention, releasing Payne to the custody of the United States Marshals Service
18 for further transfer to the District of Nevada to resolve his case here. Oregon
19 Case, ECF No. 916.

20 Accordingly, the circumstances of Payne's pretrial custody will change upon
21 his transfer to the District of Nevada and access issues, if any, should be
22

1 addressed then. Because Payne's access to discovery will change upon his transfer
2 to this District, the Motion should be denied as moot.

3 **WHEREFORE**, for all the foregoing reasons, the government respectfully
4 requests that the Court deny the Motion.

5 **DATED** this 26th day of July 2016.

6
7 Respectfully,

8 DANIEL G. BOGDEN
9 United States Attorney

10 //s//

11 _____
12 STEVEN W. MYHRE
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CERTIFICATE OF SERVICE

I certify that I am an employee of the United States Attorney’s Office. A copy of the foregoing **GOVERNMENT’S RESPONSE IN OPPOSITION PAYNE’S EMERGENCY MOTION TO RECONSIDER DENIAL OF DEFENDANT RYAN W. PAYNE’S MOTION TO COMPEL ELECTRONIC ACCESS TO LEGAL MATERIALS AND THE ABILITY TO COMMUNICATE TELEPHONICALLY WITH DEFENSE COUNSEL IN A CONFIDENTIAL MANNER** was served upon counsel of record, via Electronic Case Filing (ECF).

DATED this 26th day of July, 2016.

/s/ Steven W. Myhre

STEVEN W. MYHRE
Assistant United State Attorney