

UNITED STATES COURT OF APPEALS FOR THE SEVENTH CIRCUIT

Everett McKinley Dirksen United States Courthouse
Room 2722 - 219 S. Dearborn Street
Chicago, Illinois 60604



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FINAL JUDGMENT

November 9, 2017

Before: FRANK H. EASTERBROOK, Circuit Judge
ILANA DIAMOND ROVNER, Circuit Judge
DIANE S. SYKES, Circuit Judge

No. 16-2941	MICHAEL S. WILSON, Plaintiff - Appellant v. DONALD GAETZ, et al., Defendants - Appellees
Originating Case Information:	
District Court No: 3:14-cv-00071-NJR-DGW Southern District of Illinois District Judge Nancy J. Rosenstengel	

The judgment of the District Court is **AFFIRMED**, with costs, in accordance with the decision of this court entered on this date.

form name: c7_FinalJudgment(form ID: 132)

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

MICHAEL S. WILSON,

Plaintiff,

vs.

DONALD GAETZ and MICHELLE
CREWS,

Defendants.

Case No.14-CV-71-NJR-DGW

MEMORANDUM AND ORDER

ROSENSTENGEL, District Judge:

Currently before the Court is Plaintiff Michael S. Wilson's "Motion to Alter or Amend Judgment" filed on September 24, 2015 (Doc. 100). Defendants filed a timely response (Doc. 103). For the reasons set forth below, Plaintiff's motion is denied.

INTRODUCTION

Plaintiff Michael S. Wilson is an inmate in the custody of the Illinois Department of Corrections ("IDOC") at Big Muddy River Correctional Center. Plaintiff initiated this action on January 21, 2014, pursuant to 42 U.S.C. § 1983, alleging Defendants violated his constitutional rights while he was housed at the Pinckneyville Correctional Center ("Pinckneyville"). Plaintiff's initial complaint in this matter (Doc. 1) was dismissed without prejudice with leave to amend by Judge J. Phil Gilbert (Doc. 6). Plaintiff filed his amended complaint (Doc. 7), the operative complaint in this matter, on March 28, 2014. After the Court's initial screening of the amended complaint, Plaintiff was allowed to proceed on one count against Defendants Donald Gaetz and Michelle Crews for denying

him access to the courts. More specifically, Plaintiff alleges that Defendant Crews, the former law librarian at Pinckneyville, and Defendant Gaetz, the former Pinckneyville warden, denied or limited his access to the law library from approximately March 2012 until the filing of this lawsuit. During this time, the mother of Plaintiff's son was allegedly violating visitation orders, and Plaintiff wanted to address this matter in court. Plaintiff claims that his inability to access the law library foreclosed this opportunity. Further, Plaintiff claims that Defendant Crews impeded his ability to obtain the Peoria County Courthouse address, and Defendant Gaetz denied him the opportunity to attend a June 2012 hearing, both in regards to his family law matter. He was eventually provided the address of the Peoria County Courthouse on May 7, 2012.

Defendants Gaetz and Crews filed a motion for summary judgment on the issues of qualified immunity and failure to exhaust administrative remedies on September 19, 2014 (Doc. 34). Magistrate Judge Wilkerson issued a Report and Recommendation on May 29, 2015, recommending that Defendants' Motion for Summary Judgment on the issue of qualified immunity be granted and that the issue of failure to exhaust administrative remedies be found moot (Doc. 70). The undersigned adopted this Report and Recommendation, and Defendants Gaetz and Crews were dismissed with prejudice on September 18, 2015 (Doc. 93). Plaintiff filed a motion to alter or amend judgment on September 24, 2015 (Doc. 100) and a supplement to this motion on September 29, 2015 (Doc. 102). Defendants filed a timely response (Doc. 103). Plaintiff then filed "Rebuttal to Response," which this Court will construe as a reply (Doc. 104), and a subsequent supplement to his reply (Doc. 105).

DISCUSSION

A motion to alter or amend judgment is governed by Federal Rule of Civil Procedure 59(e). Rule 59(e) permits a court to amend a judgment only if the movant demonstrates a manifest error of law or fact or presents newly discovered evidence. *See, e.g., Miller v. Safeco Ins. Co. of Am.*, 683 F.3d 805, 814 (7th Cir. 2012). “This rule enables the court to correct its own errors and thus avoid unnecessary appellate procedures.” *Id.* (internal citation and quotation marks omitted. Rule 59(e) cannot be used to advance new arguments that could have been raised previously. *Divane v. Krull Electric Co.*, 194 F.3d 845, 850 (7th Cir. 1999) (citing *Moro v. Shell Oil Co.*, 91 F.3d 872, 876 (7th Cir. 1996)). A Rule 59 motion also cannot be used to introduce new evidence which should have been introduced previously. *Moro*, 91 F.3d at 876. Finally, a Rule 59 motion cannot be used to rehash old arguments which could have been raised previously. *Caisse Nationale de Credit Agricole v. CBI Indus., Inc.*, 90 F.3d 1264, 1270 (7th Cir. 1996) (citations omitted)). The decision to grant or deny a Rule 59(e) motion is entrusted to the “sound judgment” of the district court. *Miller*, 683 F.3d at 814.

Plaintiff does not provide the Court with any evidence that was previously unavailable at the time his case was dismissed. Instead, he argues that the Court was incorrect in its interpretation of Plaintiff’s argument relating to the address of the Peoria County Court House. Specifically, Plaintiff states that the Court was incorrect in construing Plaintiff’s complaint as stating that he was not given the address to the courthouse. What he really asserted, Plaintiff argues, is that while he eventually received the address, he was initially blocked from doing so (Doc. 100, p. 3). This argument,

however, is the same one Plaintiff originally presented. Because Court previously addressed this argument, it will not rehash it again (*see* Doc. 93, p.2); *Caisse Nationale de Credit Agricole*, 90 F.3d at 1270.

Plaintiff also argues again that he has a human rights interest to access the prison law library for his family law matters. What Plaintiff fails to do in his motion, however, is to put forth any controlling case law that would allow this Court to find that he had a clear constitutional right to access the prison law library for his family law matter. Further, the cases that Plaintiff cites to his in motion to alter or amend the judgment were already fully discussed in the Order he is seeking to alter (*see* Doc. 93). And, as stated before, the Court will not restate why these cases do not ultimately help Plaintiff's case. *Id.*

CONCLUSION

For these reasons, Plaintiff's Motion to Alter or Amend Judgment (Doc. 100) is DENIED.

IT IS SO ORDERED.

DATED: June 27, 2016



NANCY J. ROSENSTENGEL
United States District Judge

United States Court of Appeals

For the Seventh Circuit

Chicago, Illinois 60604

December 14, 2017

Before

FRANK H. EASTERBROOK, *Circuit Judge*

ILANA DIAMOND ROVNER, *Circuit Judge*

DIANE S. SYKES, *Circuit Judge*

No. 16-2941

MICHAEL S. WILSON,
Plaintiff-Appellant,

v.

DONALD GAETZ and
MICHELLE CREWS,
Defendants-Appellees.

Appeal from the
United States District Court for the
Southern District of Illinois.

No. 14-CV-71-NJR-DGW

Nancy J. Rosenstengel,
Judge.

ORDER

On consideration of the petition for rehearing, all of the judges have voted to deny rehearing. It is therefore ordered that the petition for rehearing is DENIED.

**Additional material
from this filing is
available in the
Clerk's Office.**