

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
EASTERN DIVISION

DAVID LIBRACE

PLAINTIFF

v.

No. 2:16-cv-7-DPM

SOCIAL SECURITY ADMINISTRATION,
Commissioner

DEFENDANT

ORDER

The Court notes Librace's objection, *No* 36. He objects to this Court's recent Order, *No* 34, which granted the Acting Commissioner's motion to amend the Judgment, and to the resulting Amended Judgment, *No* 35. Construing Librace's recent paper as a Federal Rule of Civil Procedure 59(e) motion to alter or further amend the Amended Judgment, the Court denies the request. First, in amending the Judgment, the Court acted pursuant to Rule 60(a), not Rule 52(b). The Acting Commissioner sought relief approximately four months after the Court made its mistake and approximately three months after being served with Librace's new lawsuit, No. 2:16-cv-166-KGB-BD, *No* 6. This was within a reasonable time. *United States v. Mansion House Center North Redevelopment Co.*, 855 F.2d 524, 527 (8th Cir. 1988) (*per curiam*). Second, whatever mailing or service problems have

occurred in the new case, in this case Librace got the Magistrate Judge's recommendation last fall and objected to it. *No 28 & 29*. He also got the recent motion to amend the Judgment, and objected to that motion, too. *No 32 & 33*. The Court received and considered his objections before ruling. Third, the Court stands by its 26 April 2017 Order and its Amended Judgment. *No 34 & 35*. Like all litigants who do not prevail, if Librace wants to challenge this Court's rulings, his remedy – at this point in this case – is to seek review of those rulings by the United States Court of Appeals for the Eighth Circuit. FED. R. APP. P. 3 & 4(a).

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

4 May 2017