

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 10-cv-02072-ZLW

JOHN M. HENTGES,

Plaintiff,

v.

FILED
UNITED STATES DISTRICT COURT
DENVER, COLORADO

NOV 09 2010

GREGORY C. LANGHAM
CLERK

GIRL SCOUTS OF THE U.S.A, et al.,
KATE GENAITIS, Individually and in her Official Capacity as Consultant to the State
Councils,
GIRL SCOUTS OF COLORADO, et al.,
VIRGINIA L. MASON, Individually and in her Official Capacity as President and CEO,
ANGELA LANGHUS-GANTT, Individually and in her Official Capacity as Membership
Executive,
JULIANA RIED, Individually and as a Private Citizen Acting Under Color of State Law,
MARGARET BERRY, Individually and as a Private Citizen Acting Under Color of State
Law,
LIA CHRISTIANS, Individually and as a Private Citizen Acting Under Color of State
Law,
DENVER POLICE DEPARTMENT, et al.,
TONY DALVIT, Individually and in his Official Capacity as Police Officer,
RICHARD SEELEY, Individually and in his Official Capacity as Police Sergeant,
DENVER CITY ATTORNEY, et al.,
MELISSA DRAZEN-SMITH, Individually and in her Official Capacity as Assistant
Director,
CAROL A. WALTER, Individually and as a Private Citizen Acting Under Color of State
Law, and
E. GAY NIERMANN, Individually and in her Official Capacity as Attorney and Child and
Family Investigator,

Defendants.

ORDER DENYING MOTION TO RECONSIDER

Plaintiff, John M. Hentges, filed *pro se* on October 8, 2010, a motion to reconsider, which he characterizes as an "Emergency Motion to Chief Judge for Relief From Judgments and Orders" [Docket No. 28] pursuant to Rule 60(b) of the Federal

Rules of Civil Procedure. Mr. Hentges asks the Court to reconsider and vacate “all orders and judgments” entered in this action and in **Hentges v. Walter**, No. 10-cr-00357-MSK (D. Colo. filed June 24, 2010), which currently is pending before the Court. The Chief Judge of this District is not assigned to this case. Moreover, the Chief Judge is not the appropriate judicial officer to reconsider the orders and judgment entered in the instant action. Also, Case No. 10-cr-00357-MSK has been assigned to a different judge of this District and Mr. Hentges may not challenge Case No. 10-cr-00357-MSK in the instant action.

The orders and judgment entered in the instant action are the “Order Directing Clerk to Commence Civil Action and Directing Plaintiff to Cure Deficiency,” filed on August 26, 2010 [Docket No. 2]; the “Order of Dismissal,” filed on September 23, 2010 [Docket No. 17]; and the “Judgment” [Docket No. 18], also filed on September 23. In Docket No. 2, the Court dismissed Mr. Hentges’ five minor children as parties to this action for his lack of standing to represent them. In Docket No. 17, the Court dismissed his amended complaint and this action for lack of subject matter jurisdiction.

The Court must construe Mr. Hentges’s filings liberally because he is not represented by an attorney. **See Haines v. Kerner**, 404 U.S. 519, 520-21 (1972); **Hall v. Bellmon**, 935 F.2d 1106, 1110 (10th Cir. 1991). For the reasons stated below, the motion to reconsider will be denied.

A litigant subject to an adverse judgment, and who seeks reconsideration by the district court of that adverse judgment, may “file either a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e) or a motion seeking relief from the judgment pursuant to Fed. R. Civ. P. 60(b).” **Van Skiver v. United States**, 952 F.2d 1241, 1243

(10th Cir. 1991). A motion to alter or amend the judgment must be filed within twenty-eight days after the judgment is entered. **See** Fed. R. Civ. P. 59(e). The Court will consider Mr. Hentges's motion to reconsider pursuant to Rule 59(e) because it was filed within twenty-eight days after the judgment was entered in this action on September 23. **See *Van Skiver***, 952 F.2d at 1243 (stating that motion to reconsider filed within ten-day limit for filing a Rule 59(e) motion under prior version of that rule should be construed as a Rule 59(e) motion).

The three major grounds that justify reconsideration are: (1) an intervening change in controlling law; (2) the availability of new evidence; and (3) the need to correct clear error or prevent manifest injustice. **See *Servants of the Paraclete v. Does***, 204 F.3d 1005, 1012 (10th Cir. 2000).

The September 23 dismissal order discusses in detail the reasons for the dismissal. Upon consideration of the liberally construed motion to reconsider and the entire file, the Court finds that Mr. Hentges fails to demonstrate some reason why the Court should reconsider and vacate the order to dismiss this action. Mr. Hentges fails to demonstrate the existence of an intervening change in controlling law or new evidence and he fails to convince the Court of any need to correct clear error or prevent manifest injustice. Therefore, the motion to reconsider will be denied.

In addition, on October 12, 2010, Mr. Hentges filed a "Petition to Chief Judge for Ruling and Orders" asking for the issuance of arrest warrants or summonses in four pending criminal cases and one closed miscellaneous criminal case, and again challenging the dismissal of the instant action. Mr. Hentges may not challenge any action other than the instant action. In addition, as previously stated, the Chief Judge is

not the appropriate judicial officer to reconsider the dismissal of the instant action.

Accordingly, it is

ORDERED that the motion titled "Emergency Motion to Chief Judge for Relief From Judgments and Orders" [Docket No. 28] that Plaintiff, John M. Hentges, filed *pro se* on October 8, 2010, and which the Court has treated as a motion to alter or amend the judgment pursuant to Fed. R. Civ. P. 59(e), is denied. It is

FURTHER ORDERED that the "Petition to Chief Judge for Ruling and Orders" [Docket No. 31] that Mr. Hentges filed on October 12, 2010, is denied given that this action has been dismissed.

DATED at Denver, Colorado, this 8th day of November, 2010.

BY THE COURT:

s/Philip A. Brimmer
PHILIP A. BRIMMER
United States District Judge, for
ZITA LEESON WEINSHIENK, Senior Judge
United States District Court

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

CERTIFICATE OF MAILING

Civil Action No. 10-cv-02072-ZLW

John M. Hentges
827 Commerce Street
Le Sueur, MN 56058

I hereby certify that I have mailed a copy of the **ORDER** to the above-named individuals on 11/9/10

GREGORY C. LANGHAM, CLERK

By: 

Deputy Clerk