

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 11-cv-01169-WJM-KMT

GUSTAVO COLÓN,

Plaintiff,

v.

DAVID BERKEBILE

Defendant.

ORDER DENYING PLAINTIFF'S MOTION TO RECONSIDER

On September 18, 2012, the Court adopted Magistrate Judge Kathleen M. Tafoya's Recommendation that Plaintiff's Motion for Summary Judgment be denied. (ECF No. 51.) On October 1, 2012, Plaintiff filed a "Motion to Reconsider the Dismissal of Plaintiff Summary Judgment" ("Motion"). (ECF No. 52.) Plaintiff's Motion re-raises arguments made in his Motion for Summary Judgment (ECF No. 34), his Reply to the Motion for Summary Judgment (ECF No. 39), and his Objection to the Magistrate Judge's Recommendation (ECF No. 50).

"Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice." *Servants of Paraclete v. Does*, 204 F.3d 1005, 1012 (10th Cir. 2000). Plaintiff has failed to show that any of these bases apply here. Instead, Plaintiff argues that the Court has not addressed the arguments he raised. However, the Court has already ruled that summary judgment in Plaintiff's favor is not

appropriate because Plaintiff failed to submit evidence showing that Defendant's Appointment Affidavit was not administered in accordance with 5 U.S.C. § 2903(b). (ECF No. 51 at 5-6.) A motion to reconsider is "not available to allow a party merely to reargue an issue previously addressed by the court when the reargument merely advances new arguments or supporting facts which were available for presentation at the time of the original argument." *Cashner v. Freedom Stores, Inc.*, 98 F.3d 572, 577 (10th Cir. 1996).

Accordingly, Plaintiff's "Motion to Reconsider the Dismissal of Plaintiff Summary Judgement" (ECF No. 52) is DENIED.

Dated this 1st day of July, 2013.

BY THE COURT:



William J. Martínez
United States District Judge