

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 12-cv-03346-LTB

MIKEAL GLENN STINE,

Petitioner,

v.

MR. D. BERKEBILE, Warden, ADX,
DR. CHRISTOPHER WILSON, ADX, and
MR. JON MATTHES, DDS (EX-ADX Dentist),
DR. J. McCARTHY, Psychologist ADX,
CAPT. KRIST, Chief Corr. Officer ADX,
ASSOCIATE WARDEN OPERATIONS ADX,
LT. SHORTIS, SHU LT. ADX,
LT. WHITEHOUSE, Operations LT. ADX,
JOHN DOE, (Unknown ADX Corr. Officers),
MR. ARKO, Corr. Officer ADX,
U.S. FEDERAL BUREAU OF PRISONS (Agency),
MR. TIMOTHY PEARSALL, Corr. Officer ADX,
MS. S. MOLINAR, RN ADX Health Services,
MR. J. B. BATULIS, Corr. Officer ADX,
DR. KOCH, Psychologist ADX,
MR. McKINNEY, Corr. Officer, SHU ADX,
R. MADISON, Corr. Counselor ADX,
MS. P. RANGEL, Unit Manager ADX,
MR. HUDDLESTON, EMT/ADX Health Services,
MR. A. BALSICK, Corr. Officer ADX,
MS. SANDOUSKI, Corr. Officer ADX,
MR. L. THOMAS, Corr. LT. ADX, and
MR. J. DRIVER, Corr. Lt. (Acting) ADX,

Respondents.

ORDER DENYING MOTION TO RECONSIDER

The matter before the Court is the "Motion for Clarification" filed by Plaintiff Mikeal Glenn Stine, a *pro se* prisoner litigant, on February 14, 2013. Mr. Stine is in the custody of the United States Bureau of Prisons and currently is incarcerated at ADX in

Florence, Colorado. Mr. Stine seeks reconsideration of the Court's Denial of Request entered on February 5, 2013. The Court must construe the Motion liberally because Mr. Stine is a *pro se* litigant. 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 Court will deny the Motion.

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. Stine's Motion to Reconsider pursuant to Rule 59(e) because it was filed within twenty-eight days after the denial was entered in this action on February 5, 2013. See *Van Skiver*, 952 F.2d at 1243 (stating that a motion to reconsider should be construed as filed pursuant to Rule 59(e) when it is filed within the ten-day limit (limit effective prior to December 1, 2009) set forth under Rule 59(e)).

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). A motion to reconsider is appropriate where the court has misapprehended the facts, a party's position, or the controlling law. *Id.* (citing *Van Skiver*, 952 F.2d at 1243).

In the Motion, Mr. Stine asks that the Court clarify the questions on the Court-approved form that he failed to answer and specify the previous cases he failed to identify in which the named defendants were a party. The Court finds the February 5, 2013 Order is clear. It is not the responsibility of the Court to assist Mr. Stine to comply with the restrictions set forth in *Stine v. Lappin, et al.*, No. 07-cv-01839-WYD-KLM, ECF No. 344 at 30-32 (D. Colo. Sept. 1, 2009).

The Court, therefore, will deny Mr. Stine's Motion to Reconsider because he fails to demonstrate that the Court misapprehended the facts, his position, or the controlling law and that reinstatement of this action is deserving. Accordingly, it is

ORDERED that Mr. Stine's Motion for Clarification, ECF No. 5, filed on February 14, 2013, is construed as a Motion to Reconsider filed pursuant to Fed. R. Civ. P. 59(e) and is denied.

DATED at Denver, Colorado, this 21st day of February, 2013.

BY THE COURT:

s/Lewis T. Babcock
LEWIS T. BABCOCK, Senior Judge
United States District Court